CONTENTS

As the name indicates, the Growth Management Act, Chapter 36.70A RCW (hereinafter referred to as "GMA") represents the modern day effort of Washington State to manage its growth. Washington State's tremendous population growth has often exceeded the capacity of public infrastructure and resulted in serious damage to sensitive environmental resources. The GMA addresses these growth problems and others by requiring local communities most affected by growth to engage in twenty year land use planning and to concentrate development in urbanized areas to use infrastructure efficiently. The GMA requires all cities and counties to adopt development regulations that protect environmental and natural resources. Most local communities have had these laws on their books now for more than a decade. People certainly have different opinions about the effectiveness of the GMA, but there's no question that it has had a profound impact on communities throughout the state. This chapter will give you a basic understanding of the GMA and what it requires of your community.

A. Origins of Growth Management

Before the mid-1980's, "growth management" had only generic meaning for Washington planners. But with passage of the GMA by the Washington Legislature in 1990,[i] the term has acquired special significance. A landmark report, "A Growth Strategy for Washington State," issued by the Growth Strategies Commission in September 1990, captured much of the early thinking on the topic. Today, the GMA is codified in many chapters, but primarily in Chapter 36.70A RCW.

The GMA provides a new vocabulary for an old process. Terms such as classification, designation, conservation, protection, participation, consistency, conformance, and concurrency are now commonly used to describe progress in meeting growth management goals. Another term not to be forgotten is "opportunity." By opening the process to those who have not participated before, the GMA provides an opportunity to help balance the demands that shape our communities. Through this program, a community can mobilize its energy and address critical issues through the public process. Most importantly, and beyond the opportunity to create a community vision, the GMA provides the tools a community needs to bring that vision to reality.

The GMA: The Origins of Legislative Control of Substantive Planning in Washington

By the late 1980's, three factors in Washington State merged into a strong legislative force propelling growth management: 1) increased growth in the metropolitan areas of Puget Sound; 2) recognition statewide that resource and critical areas needed greater protection; and 3) the need for economic development and public services, especially in Washington's economically depressed areas.

In the mid to late 1980's, a strong regional economy generated rapid growth in the central Puget Sound basin. Populations gradually moved farther from employment centers, straining

infrastructure and the ability of local government to provide adequate public services. People also moved into rural areas, converting them to suburbia. One of the forces behind growth management was awareness that urban sprawl can be expensive (over-taxing limited public facilities), and destructive to rural and resource lands.

Municipalities and state agencies had wrestled for nearly 20 years (with mixed results) with wetland, wildlife and aquifer protection issues, and with conservation of agricultural, mineral, and timber lands. Communities experimented with resource and critical area management guidelines, often as overlays or additions to traditional zoning tools, but regional efforts, for the most part, were uncoordinated. In the end, they were largely viewed as too little, too late.

By the late 1980's, "growth" in some areas seemed out of control. Urban sprawl appeared to threaten critical areas and resource lands, while local governments seemed unable or unwilling to deal directly with the resulting conflicts. In this climate, the state's Growth Strategies Commission was appointed.

Resource management and critical area protection was the second force that converged on the growth management movement, beginning with two state planning mandates of the 1970's: the State Environmental Policy Act (SEPA)[ii] and the Shoreline Management Act (SMA).[iii] These provided models for state regulation of local planning in matters where an overriding state interest was perceived.

While the Puget Sound regional economy was solid and growing, parts of western and eastern Washington were economically depressed or stagnant due to a decline in resource-based industries. The Growth Strategies Commission determined that land use planning and funding for infrastructure repairs and additions were needed to revitalize these areas. Its September 1990 report presented 10 recommendations for action, highlighting a need to share and encourage economic growth in all regions of the state.[iv]

GROWTH STRATEGIES COMMISSION—
10 RECOMMENDATIONS FOR ACTION

1	All local governments must protect environmentally sensitive areas and address identified environmental problems. Immediate action should be taken to protect threatened resources and areas.
2	The state, regional, and all local governments should identify open space and link it in networks to permanently separate cities, protect and enhance the environment, provide for recreation, and secure a strong resource base for agriculture and forestry.
3	All local governments should prevent development from encroaching on commercially viable agricultural and forest lands.
4	The state should establish a process to identify and protect lands and resources of value to all citizens of the state.
5	The state should focus its spending to build a network of strong regional economies that seek to spread growth across the state.

6	Local governments should seek to concentrate employment centers and housing, using urban design to preserve community character and open space.
7	Urban growth should be contained to protect the environment and to make more efficient use of public facilities. Cities are the preferred places for urban growth.
8	Required housing and land use plans must include sufficient developable land for a range of housing types. Each community within a region should be required to accept its fair share of low-income housing. The state should increase funding for housing programs for low-income people, special needs populations, and moderate- and middle-income homebuyers.
9	Funding for transit should favor communities with supportive land use plans. Comprehensive plans should link land use and all types of public facilities, parks, schools, sewers, storm water drainage, fire, and transportation.
10	A process must be developed by which all communities within a region fairly share the burden of public facilities.

Public pressure to address growth management was intense during the 1990 legislative session. Using the preliminary findings of the Growth Strategies Commission, the Legislature enacted and Governor Gardner signed into law ESHB 2929, the GMA. The GMA emphasizes a "bottoms up" approach to planning, in which counties and cities use state guidelines to shape their own comprehensive plans to manage growth. Although deadlines for meeting the requirements were established, there was originally no penalty if local governments did not meet them.

At the end of the session, representatives of several environmental groups determined that the GMA lacked teeth, having few incentives to meet its requirements. These groups circulated an initiative to create a more centralized system with stricter, state-mandated guidelines for local governments. Sanctions would be imposed for not meeting deadlines or requirements.[v]

The initiative was narrowly defeated, but the Governor and Legislature proceeded to implement the recommendations of the Growth Strategies Commission in the next legislative session. This legislation resulted in the 1991 amendments that provided for administration and enforcement of the GMA.[vi]

The Legislature left to the Washington State Department of Community, Trade and Economic Development (CTED) the task of defining the details and creating the explanatory resources for implementing the GMA. Two principal sets of guidelines have been adopted as part of the Washington Administrative Code:

- Minimum guidelines for classifying and designating agricultural, forest, mineral lands, and critical areas.[vii]

- Procedural criteria for adopting comprehensive plans and development regulations, including a detailed section adopted in 2000 addressing the use of best available science in critical area regulation.[viii]

In addition, as of 2006, CTED has published more than 129 guidebooks and other publications on growth management. (See Appendix 1 for an order form for these publications.)

GMA amendments in 1993 set deadlines for adopting interim urban growth areas for counties initially required to plan fully under the GMA and those opting in. The Governor was given authority to impose sanctions for not meeting GMA deadlines.

In 1995, the Washington State Legislature enacted, and the Governor signed, a broad land use and environmental regulatory reform law recommended by the Governor's Task Force on Regulatory Reform (ESHB 1724). ESHB 1724 made significant changes to three of the state's core land use laws: the GMA; the State Environmental Policy Act (SEPA); and the Shoreline Management Act (SMA). The primary goal of this regulatory reform was to establish comprehensive plans and development regulations as the foundation from which subsequent land use decisions are made. ESHB 1724 also introduced new state requirements for more coordinated and streamlined project review and decisions. Most notably, it required all cities and counties to provide for not more than one open record hearing and one closed record appeal for project applications. Municipalities fully planning under the GMA were required to issue a final decision on a project application within 120 days of a complete application. At the project level, integration of environmental review and the permit process is required in all jurisdictions. Jurisdictions fully planning under the GMA have more specific requirements for integrated project review. Finally, ESHB 1724 created the Land Use Study Commission, whose primary goal was to make recommendations on the integration and consolidation of the state's land use and environmental laws into a single, manageable statute.

In 1997, the Washington State Legislature enacted and the Governor signed a bill implementing a number of recommendations of the Land Use Study Commission. The commission examined the consolidation of state land use and environmental laws, and completed a report and recommendations with respect to the GMA and related state laws.[ix] The Land Use Study Commission submitted a final report to the Legislature in December 1998. The state legislature adopted many of the Commission's recommendations in 1998 in ESB 6094.

Although the basic structure and requirements of the GMA have remained intact over the years, the state legislature amends the GMA just about every year. A current version (October 2005) of the Growth Management Act (and related laws), as amended, is posted on the CTED Web site at http://www.cted.wa.gov/_CTED/documents/ID_2555_Publications.pdf. Some of the more significant amendments are summarized as follows:

- 1995, 1996, 2002 and 2003 amendments authorize intense development of some rural areas, such as in-fill development for areas already containing intense development and industrial development through mechanisms such as industrial land banks.

- 1995 and 2003 amendments provide that Shoreline Management Act (Chapter 90.58 RCW) policies and regulations are to be considered part of a community's complement of GMA policies and regulations. The shoreline regulations must be

consistent with the community's GMA regulations and must provide a level of protection to environmentally sensitive areas (critical areas) at least equal to that provided by GMA regulations protecting the same type of areas.

- A 1995 amendment requires that GMA regulations that protect critical areas, which include wetlands, streams and steep slopes, must now be supported by best available science. "Best available science" (BAS) basically means credible scientific evidence.

- A 1997 amendment created what's commonly known as the "Buildable Lands Program." This program requires some of the state's largest counties and their cities to evaluate and monitor the effectiveness of local GMA regulations and to address shortcomings.

- 1996 and 1998 amendments require cities and counties to address general aviation airports and state-owned transportation facilities in their comprehensive plans.

- 2004 amendments included a provision allowing the state to expedite review of local GMA policies and regulations; new restrictions on industrial land banks; and an exemption from GMA urban density requirements for national historic reserves.

As you will find from the rest of this chapter, the amendments above relating to rural development are significant because the GMA changes how local governments address the development of rural areas. The other amendments are significant because they leave many communities with the task of incorporating new information and requirements into GMA plans and regulations. That task is currently a work in progress for many communities through GMA update requirements, identified below.

In 2002 the state legislature enacted a new timeline amendment to GMA by imposing deadlines on cities and counties to update their GMA policies and regulations. The deadlines vary depending upon the location of the city or county, starting with December 1, 2004 for some Puget Sound jurisdictions and ending on December 1, 2007 for some eastern Washington jurisdictions (see Appendix 2 for specific deadlines). City and county planning commissions and boards facing these deadlines will spend the bulk of their time making recommendations on the updates. A large portion of this Chapter (starting at Section E (1)) identifies what communities must do to comply with this update requirement.

B. The Primacy Of The Comprehensive Plan

Adopting a comprehensive plan is a key element in the land use planning process. The comprehensive plan expresses a community's vision of itself, the community it would like to become, its hopes and dreams, and the philosophical underpinning for any planning activity. It is an expression of the "public interest," in the sense of exercising the public authority of a

municipality. Since the GMA was enacted, it has become an enforceable blueprint or framework for all subsequent land use regulation activity.

Although the county-wide planning policies (discussed later in this chapter) set the direction for comprehensive planning on a regional level, the comprehensive plan is the starting point for any discussion of the local land use process. It is also the touchstone for measuring community actions, and the policy framework by which all community planning enactments will be judged.

The comprehensive plan is formulated initially by a planning commission (appointed residents with an interest in planning), with technical assistance from the planning staff. Ultimately, the elected public officials (city councils or county commissions) adopt it. Comprehensive plans typically are processed through a series of public hearings. These give the public an opportunity to express their views on community plans. Growth management legislation stresses early and continuous public involvement to validate these planning efforts.[x]

Comprehensive planning identifies community or "public" interest through a public and political process. The resulting plans reflect the political compromises needed to forge consensus for a community plan. While not everyone will be satisfied with the end result, the comprehensive plan as adopted should deal with the many conflicting forces that shape a community. It is not the purpose of a comprehensive plan to eliminate conflict. Rather, it provides the framework for considering and resolving conflicting issues in the community.

The comprehensive plan is now the centerpiece of local planning in Washington State. The growth management movement of the late 1980's led to several changes in philosophy, including a state-directed mandate that all cities and counties accomplish certain objectives.

C. The Goals of Growth Management Planning[xi]

Growth management, as a legislative policy, is expressed in 14 goals[xii], as follows:

- Urban Growth – Encourage urban growth where facilities are adequate to meet service needs.
- Reduce Sprawl – Eliminate sprawling, low-density development that is expensive to deliver services to and is destructive to critical areas, rural areas, and resource values.
- Transportation – Encourage efficient, multimodal transportation.
- Housing – Encourage a variety of affordable housing for all economic segments of the population.
- Economic Development – Encourage economic development consistent with resources and facilities throughout the state.

- Property Rights – Protect property from arbitrary decisions or discriminatory actions.
- Permits – Issue permits in a timely manner and administer them fairly.
- Natural Resources Industries – Maintain and enhance resource-based industries.
- Open Space and Recreation – Encourage retention of open space and recreational areas.
- Environment – Protect the environment and enhance the quality of life.
- Citizen Participation – Encourage citizen involvement in the planning process.
- Public Facilities and Services – Ensure that adequate public facilities and services are provided in a timely and affordable manner.
- Historic Preservation – Identify and encourage preservation of historic sites.
- Shoreline Management – The goals and policies of the SMA are added as one of the goals of GMA.

The Legislature did not prioritize these 14 goals, recognizing that each community would emphasize them differently when conflicts arise. The 14 goals are an important part of the GMA, because a Growth Management Hearings Board or court can invalidate city or county GMA policies and regulations if those provisions fail to implement the goals.[xiii] In order to maximize the defensibility of any such legislation, the legislative record should always contain a detailed answer to the question: how does this legislative act further the goals of the GMA? A detailed and documented application of the goals helps avoid invalidation by (1) assuring that the goals are properly considered, and (2) expressing policy choices that must be given deference by the courts and Hearing Boards.

In 1997 the Legislature amended the GMA to recognize the deference the GMA Hearing Boards should give to cities and counties when balancing the goals in the adoption of their comprehensive plans and development regulations:

> In recognition of the broad range of discretion that may be exercised by counties and cities consistent with the requirements of this chapter, the legislature intends for the boards [GMA Hearing Boards] to grant deference to the counties and cities in how they plan for growth. Local comprehensive plans and development regulations require counties and cities to balance priorities and options for action in full consideration of local circumstances. The legislature finds that while this chapter requires local planning to take place within a framework of state goals and requirements, the ultimate burden and responsibility for planning, harmonizing the planning goals of this chapter, and implementing a county's or city's future rest with that community.[xiv]

The deference given by the Legislature is not unlimited. A good example is the inclusion of best available science (BAS) in critical area ordinances. Some municipalities may find that protecting environmental resources, as mandated by GMA best available science requirements, may not be consistent with GMA goals promoting economic development, preventing sprawl or protecting private property rights. In response to arguments that best available science only has to be considered (as opposed to followed) for critical area ordinances because of these competing goals, the Court had this to say:

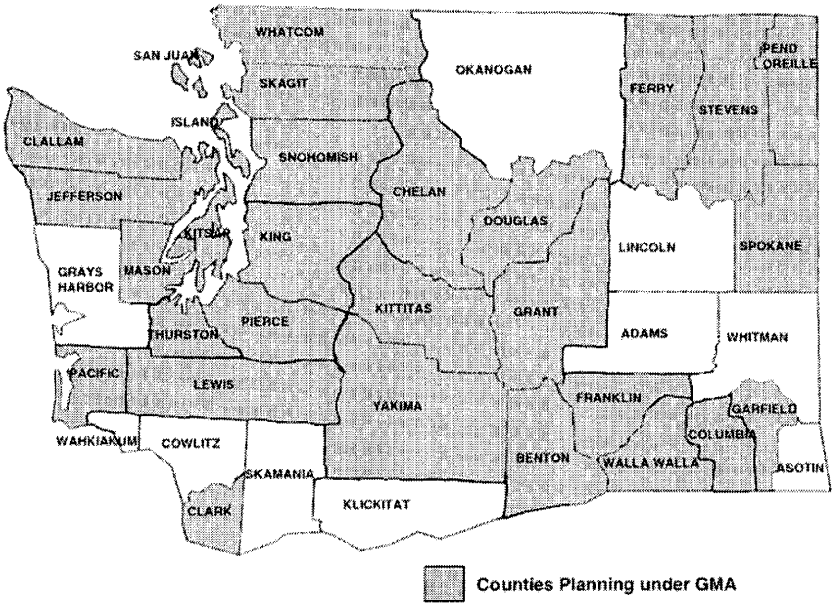
> While the balancing of the many factors and goals could mean the scientific evidence does not play a major role in the final policy in some GMA contexts, it is hard to imagine in the context of critical areas. The policies at issue here deal with critical areas, which are deemed 'critical' because they may be more susceptible to damage from development. The nature and extent of this susceptibility is a uniquely scientific inquiry. It is one in which the best available science is essential to an accurate decision about what policies and regulations are necessary to mitigate and will in fact mitigate the environmental effects of new development.[xv]

In short, the Growth Management Hearings Boards and the courts will give deference to how GMA goals are applied to a specific community, allowing that community to adopt plans and regulations that suit its unique circumstances. In order to take full advantage of the deference afforded, cities and counties should state in writing how they have balanced the goals and how their plans and regulations further those goals. This planning board or commission should initiate this analysis for final adoption by the municipality's legislative body. In carrying out this planning exercise, cities and counties should consult with planning professionals and attorneys to ensure that the application of the goals is consistent with GMA Hearing Board and court decisions.

D. Who Must Plan?

Only the state's fastest growing counties and cities are required to plan fully under GMA. Counties and cities fully planning under the GMA are required to meet all of the Act's goals and requirements. Fully planning under the GMA is optional for all other cities and counties, triggered only by a majority vote of the county commissioners. However, the Act does establish some mandatory requirements for all counties and cities, whether required to plan fully or not.

Counties Planning under Growth Management Act



Counties required to plan fully are (1) those counties with a population of 50,000 or more, and that either grew more than 10% in the 10 years preceding May 16, 1995, or after that date are growing by more than 17% in the preceding 10 years; (2) any county that has grown more than 20% in 10 years; and (3) any community which voluntarily elects to plan under the Act (collectively referred to as "planning communities").[xvi] A map of Washington counties, required or opting to fully plan under the GMA, is shown above.

Next, the Legislature required all counties in the state to "designate and classify" resource lands and critical areas. Fully planning jurisdictions were also required to adopt regulations to "conserve" resource lands and to "protect" critical areas. This was a first step toward implementing comprehensive planning under the GMA. Counties and cities not fully planning under the GMA must also adopt regulations to protect critical areas.

E. Building On Your Community's Growth Management Legacy: Past Accomplishments and Current Challenges.

The GMA demands much of Washington counties and cities. Your community has probably made some significant accomplishments under the GMA. Your planning commission or board and legislative body probably put in long hours and may have endured significant public controversy to put together the many planning documents and development regulations required by the GMA. In more recent years, your community has probably focused on implementing these plans and regulations. The impacts have been far reaching, from increasing densities within urban growth areas to protecting natural resource areas and environmentally sensitive

areas. The GMA also requires your community to periodically revisit its GMA accomplishments to incorporate new statutory requirements and to ensure your community's development plans and policies reflect and adapt to changes in your community. As your community grows and expands, your plans and development regulations must also grow and expand.

When the legislature adopted the GMA in 1990, it required all cities and counties in Washington State to initiate significant planning efforts, particularly those communities subject to the full set of GMA objectives. With a healthy dose of financial assistance from the state, most communities completed those planning requirements in the middle to late 1990's. Although the GMA can result in changes to potentially all of your community's plans and regulations, your community's primary GMA accomplishments are embodied in the following documents:

Fully Planning Communities:

- County-wide Planning Policies: Adopted by the county, this document lays the general framework for coordinated land use planning between the county and its cities to ensure that county and city comprehensive plans are consistent with each other. A more detailed discussion of these policies is located at Section E(2)(b)(ii) of this chapter.

- Comprehensive Plans: A policy document plans for the development of your community over the next twenty years. A more detailed discussion of the Comprehensive Plan is located at Section 3(E)(c) of this chapter.

- Development Regulations: The regulations that implement your community's comprehensive plan. The GMA does not dictate where a community has to place these regulations in their municipal codes, so the locations vary. GMA regulations may be divided into separate municipal code titles including Zoning, Subdivision, Critical Area (sometimes called Sensitive Areas) and Shoreline Management, or they may be consolidated in a unified development code. Chapters 5(A) and (B) and Chapter 7 contain more information on development regulations.

All Communities:

All communities, including those that are not subject to the full planning requirements of the GMA, have to adopt development regulations that protect critical areas and natural resource areas.

1. Updating Your Growth Management Plans and Regulations.

As mentioned previously, the GMA requires cities and counties to update their comprehensive plans and development regulations every seven years. RCW 36.70A.130 sets update deadlines for specified cities and counties starting with December 1, 2004 for most Puget Sound counties and cities and ending with a December 1, 2007 deadline for counties and cities located in eastern

Washington (see Appendix 2 for more specific dates). By these deadlines, RCW 36.70A.130(1)(a) requires the cities and counties to

> ...take legislative action to review and, if needed, revise its comprehensive land use plan and development regulations to ensure the plans and regulations comply with the requirements of [Growth Management]...

The legislative action required of cities and counties means the adoption of an ordinance or resolution finding that the municipality's GMA plans and regulations are consistent with GMA requirements. Fully planning communities must analyze the most recent ten-year population forecast by the Washington State Office of Financial Management and incorporate it into their updated plans and regulations.

This update requirement subjects all local GMA policies and regulations to legal challenge. When a fully planning jurisdiction adopts some legislation pursuant to the GMA, the consistency of that legislation with the GMA can only be challenged if a petition for review is filed with a Growth Management Hearings Board within 60 days of adoption. Once that 60-day period expires, there is no longer any right of review and the adopted plans and regulations are essentially immunized from any legal challenge pertaining to consistency with the GMA. The ordinance or resolution required for the GMA updates creates an entirely new opportunity for challenge of any part of the GMA policies and regulations previously adopted[xvii]. To properly update its GMA plans and policies, a jurisdiction must ensure that all of its plans and regulations comply with the GMA.

Few counties and cities will be able to adopt a finding of GMA consistency without first making at least some revisions to their plans and regulations. This is because ensuring consistency requires: (1) a consideration of updated population projections; (2) amendments to GMA statutes; (3) Growth Management Hearing Board and court interpretations of GMA regulations; and (4) changes in the community. The impacts these four factors can have include the following:

Updated Population Projections: Urban growth areas, which by definition include all cities, must allow development densities sufficient to accommodate the next 20 years of projected growth. If your community's zoning regulations don't authorize the densities to accommodate this growth, your community will have to increase the allowed densities. Increases in population also trigger the need for more infrastructure, which can lead to changes in capital facility planning.

Growth Management Amendments: The state legislature has frequently amended the GMA. One of the most significant amendments, which will constitute the bulk of work for most community updates in the 2004-2007 update cycle, involves the best available science requirement of RCW 36.70A.172. This requirement is not limited to fully planning communities, but applies to every city and county in the State of Washington. The legislature did not adopt RCW 36.70A.172 until 1995, after most communities had adopted their GMA plans and regulations. Because the 60-day challenge period had long expired for most communities to compel compliance with the GMA, the update requirement will be the first time

most communities will work toward complying with the 1995 best available science requirement. Best available science requires a detailed legislative justification of every regulation submitted by the community as fulfilling its GMA obligation to protect critical areas. The community must establish that credible scientific evidence supports the proposition that its critical area regulations sufficiently protect critical areas. This scientific evidence will rely on scientific studies or testimony provided by qualified scientific experts.

The integration of state-owned transportation facilities and general aviation airports into local comprehensive plans is also a new GMA requirement for the 2004-2007 update cycle. This task will require some effort from communities that house these types of facilities.

Under another set of amendments, the state legislature provided counties with the option of facilitating development in rural areas. RCW 36.70A.070(5)(d), for example, allows for the in-fill of relatively dense development outside urban growth areas if several requirements are met. Certain types of recreation and tourist uses are also allowed, as well as isolated cottage industries and isolated small-scale businesses. The areas allowed by RCW 36.70A.070(5)(d) are commonly referred to as "limited areas of more intense rural development" or LAMIRDs. The legislature has also adopted other regulations for rural areas that facilitate industrial development and add further restrictions to the designation of master planned resorts, as detailed in RCW 36.70A.360-.367.

Growth Management Hearing Board Interpretations: In addition to changes in GMA statutes, the interpretation of those statutes evolves as well. Communities that may have thought they were complying with GMA regulations in the 1990's may now find that their plans and regulations are not consistent with some of the Hearing Board and court decisions issued since that date. Probably the most significant line of Hearing Board cases deals with minimum density requirements. The Central Puget Sound Growth Management Hearings Board (CPSGMHB) has ruled that the minimum net residential density within urban growth areas should be four dwelling units per acre. Many cities still have estate type zoning for upscale and/or rural neighborhoods with densities significantly lower. These cities will have to change their zoning requirements accordingly. Note that the four dwelling unit rule only applies to counties and cities within the general Puget Sound area subject to the jurisdiction of the CPSGMHB. The other two Hearing Boards in the state, which have jurisdiction over other cities and counties, have not developed density requirements as strict or as comprehensive as those issued by the CPSGMHB. Hearing Board cases are sometimes appealed to the state's courts as well. The resulting court opinions can also necessitate changes to local plans and regulations.

Changes in the Community: Community changes can certainly render parts of GMA plans and regulations obsolete. The comprehensive plan must have an accurate inventory of capital facilities, utilities and housing. Major new development can also change traffic and land use patterns identified in a comprehensive plan. Large annexations can have a profound impact on all parts of the comprehensive plan.

2. Past Accomplishments: What the GMA Has Already Required of Your Community.

As indicated previously, the GMA update requirement doesn't just require communities to incorporate changes in GMA laws since the initial adoption of Growth Management policies and regulations. The update also requires a city or county to ensure that its GMA policies and regulations are consistent with all currently existing requirements of the GMA. If GMA comprehensive plan policies and development regulations fell short of GMA requirements when they were first adopted, those shortcomings will have to be addressed in the update unless a GMA amendment has removed the shortcoming. Changes in factors such as population and traffic patterns can also require a reevaluation of the GMA requirements that applied at initial adoption. Consequently, a good understanding of the initial adoption process is essential to a successful update of your community's plans and regulations.

In your community's initial adoption of GMA plans and policies, the legislative and policy directives of GMA may have seemed like a huge task. But these requirements can become manageable when divided into five distinct tasks:

GMA: KEY REGULATORY REQUIREMENTS

1 Classification, designation, conservation, and protection – the steps in resource lands conservation and critical areas protection.

2 Population, urban growth boundaries, county-wide policies, regional plans – regionalizing the local planning process.

3 Comprehensive plans – the heart of the redefined planning process under growth management.

4 Zoning, platting, and official controls – the coordination of local development regulations and requirements of "consistency" with comprehensive plans.

5 Project review – the requirements of "consistency" and environmental review in planning and development: Land use designations, levels of development, infrastructure, characteristics of development, and identification of probable adverse environmental impacts.

Following are guidelines for each task, focusing on key points to keep in mind as you go through the process.

a. Classification, Designation, Conservation, and Protection: Steps in Resource Lands Conservation and Critical Areas Protection

Resource lands and critical area planning statewide is a primary mandate of the GMA. Each city and county in the state had to designate where appropriate:

- Agricultural lands not already characterized by urban growth and that had long-term significance for commercial production of food or other agricultural products;
- Forest lands not already characterized by urban growth and that had long-term significance for the commercial production of timber;
- Mineral lands not already characterized by urban growth and that had long-term significance for the extraction of minerals; and
- Critical areas.[xviii]

The Legislature chose to define wetlands and geologically sensitive areas in the GMA,[xix] but left frequently flooded areas, fish and wildlife habitat conservation areas, and critical aquifer recharge areas undefined. Definitions for these areas are found in minimum guidelines published by the Washington State Department of Community, Trade and Economic Development.[xx]

i. Classification and Designation

All communities had to complete the "classification and designation" of their important resource lands. Guidelines, developed by CTED and published as part of the Washington Administrative Code, explain the purpose of this statewide mandate and define "classification" and "designation."

Classification means defining categories to which natural resource lands and critical areas will be assigned.

Designation establishes for planning purposes: the classification scheme, the general distribution, location, and extent of [resource lands and critical areas]. Designation means, at least, formal adoption of a policy statement, and may include further legislative action.[xxi]

Various state agencies, including the departments of Ecology and Fish and Wildlife, have published detailed guidance documents for local communities on critical area issues such as wetlands and fish and wildlife habitat. These include model ordinances and lists of recommended habitats and species for protection.[xxii]

The GMA requires that best available science (BAS) be included in developing policies and development regulations to protect the functions and values of critical areas.[xxiii] Local governments must also give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries. CTED provides guidance to local governments in how to identify what constitutes BAS for critical areas protection and how local governments should include science in their policies and development regulations.

The CTED "Minimum Guidelines for Agricultural, Mineral, Forest, Resource Lands, and other Critical Areas" provide specific guidance for each of the critical areas.[xxiv] Some of these guidelines are mandatory (expressed as "shall") and many are suggested (expressed as "should"). In 1994, the Legislature added several criteria to be used in designating forest land. The designation of forest land shall take into account the proximity to human settlement, the size of the parcel, the long-term economic conditions, and the ease of conversion from forest use to more intense uses.[xxv]

Examples include:

With respect to wetlands, communities "shall" use the wetlands definition identified in the statute.[xxvi]

Communities are "encouraged" to make their policies consistent with Executive Orders 89-10 and 90-04, which provide no net loss policies statewide for state agencies.

Communities "should consider" wetlands protection guidance provided in the Department of Ecology (Ecology) model wetland ordinance.

Communities "should consider" the state's four-tier wetlands rating system.[xxvii]

Counties and cities not fully planning under the GMA will satisfy their obligation by classifying and designating resource lands and critical areas (with attendant policy statements and regulations, if desired). However, they are then required to adopt development regulations to protect designated critical areas.[xxviii]

The mandate to protect critical areas has assumed central importance to most local planning efforts across the state. In 1995 the Legislature adopted RCW 36.70A.172, which requires cities and counties to use "best available science" to justify their regulations. Since the Legislature didn't adopt this mandate until after most cities and counties had adopted their initial GMA plans and regulations, the mandate did not have to be addressed until the date of their GMA updates. In essence, best available science requires cities and counties to document that credible scientific evidence supports every critical area regulation. For example, if a county adopts a regulation that prohibits development within one hundred feet of its wetlands, it will need a credible scientific study or other reliable scientific evidence that establishes that one hundred feet is sufficient to protect wetland functions and values.

CTED's Web site offers hundreds of pages of technical assistance on incorporating best available science. A key publication, "Citations of Recommended Sources of Best Available Science," can be found at http://www.cted.wa.gov/_cted/documents/ID_874_Publications.pdf.

ii. Resource Lands and Critical Areas Regulations

One of the first actions GMA required of cities and counties was the adoption of regulations that conserve mineral resource lands and protect critical areas.

RCW 36.70A.060 required fully planning communities to adopt regulations to conserve resource lands on or before September 1, 1991 to accomplish the following:

> [T]o assure the conservation of agricultural, forest and mineral lands [and] assure that use of lands adjacent to [resource lands] shall not interfere with the continued use, in the accustomed manner, of these designated lands for the production of food, agricultural products or timber, or for the extraction of minerals[.]

RCW 36.70A.060 required all cities and counties to adopt regulations that protect critical areas by September 1, 1991 for fully planning cities and counties, and by March 1, 1992 for all other cities and counties. "Critical areas" are defined in RCW 36.70A.030(A) to include wetlands, aquifer recharge areas, fish and wildlife conservation areas, frequently flooded areas and geologically hazardous areas.

The requirement to "conserve" resource lands and "protect" critical areas was the first step for counties and cities under the GMA. Communities had to take this step two or three years before the adoption of GMA comprehensive plans and development regulations. The purpose was to conserve and protect these lands early in the planning process. As stated by the Central Puget Sound Growth Management Hearings Board:

> Two of the Act's most powerful organizing concepts to combat sprawl are the identification and conservation of resource lands and the protection of critical areas (see RCW 36.70A.060 and .170) and the subsequent setting of urban growth areas (UGAs) to accommodate urban growth (see RCW 36.70A.110). It is significant that the Act required cities and counties to identify and conserve resource lands and to identify and protect critical areas before the date that IUGAs (interim UGAs) had to be adopted. This sequence illustrates a fundamental axiom of growth management: "the land speaks first." Only after a county's agricultural, forestry and mineral resource lands have been identified and actions taken to conserve them, and its critical areas, including aquifers, are identified and protected, is it then possible and appropriate to determine where, on the remaining land, urban growth should be directed pursuant to RCW 36.70A.110.[xxix]

b. Population, County-Wide Planning Policies, Urban Growth Boundaries, and Regional Plans: Regionalizing the Local Planning Process

The Growth Strategies Commission recognized that local control of planning is not always possible since much of a community's growth and development is shaped by forces outside the community.[xxx] These include the rate of population growth, location of regional facilities, transportation patterns, resource use or conversion, and local preferences for or against growth in surrounding communities.

These concerns led the Legislature to mandate "regional," i.e., county planning. Previous efforts to require regional planning through state regulations were, for the most part, discretionary. The Shoreline Management Act[xxxi] was one of the first efforts at state-mandated regional land use planning. Courts have also held that a "regional" inquiry is necessary under SEPA[xxxii] when considering projects with impacts beyond a community boundary.[xxxiii] Such inquiries, however, were sporadic, uncoordinated, and often ineffective against regional growth pressures in rapidly growing areas.

Under the GMA, the Legislature directed a regional approach to planning. Four specific requirements aid in accomplishing that model:

i. Population

The first step in developing the initial local plans was to analyze regional population figures.

Each county and city had to plan for a 20-year population growth based on figures supplied by the Office of Financial Management (OFM).[xxxiv] Projected population growth was provided to each county by OFM as a reasonable range developed within a standard state high and low projection.[xxxv] Each county had to work collaboratively with the cities within the county to allocate the population, but it is important to note that the County had the final authority on city allocations, subject to appeal to the Growth Management Hearing Boards.[xxxvi] RCW 36.70A.130(3) requires cities and counties to update their population projections every ten years.

All incorporated cities and towns within a fully planning county were also required to plan, regardless of size or financial capability. Many small communities with similar interests reduced the cost of participation by banding together and developing models or guidelines that fit common needs and administrative abilities.

For fully planning communities, the seven-year GMA update requirement includes an analysis of the most recent ten-year population forecast by the Office of Financial Management.[xxxvii] Changes in population allocation can lead to substantial changes in the rest of the comprehensive plan, since population allocation affects fundamental plan elements such as allowed densities and infrastructure needs.

ii. County-Wide Planning Policies

Counties, in conjunction with cities and towns, were required to develop a series of county-wide planning policies. This provision, added in 1991 as part of the RESHB 1025 amendments,[xxxviii] was a necessary prerequisite for coordinating a county's local planning programs. The county-wide planning policies serve as a framework for local comprehensive plans and development regulations. The policies may not, however, alter the land use powers of cities. The purpose of the county-wide planning policies is to ensure consistency between county and city comprehensive plans, not to authorize counties to usurp the land use authority of cities and towns.

COUNTY-WIDE PLANNING POLICIES ARE DESIGNED TO:

- Implement urban growth boundaries[xxxix]
- Promote an orderly provision of urban services to urban development areas
- Site public capital facilities of a county-wide or statewide nature
- Provide county-wide transportation
- Assure adequate, affordable housing
- Enable joint city/county planning within urban growth areas
- Encourage county-wide economic development
- Analyze fiscal impact

This legislation set up a program for regional cooperation; it makes the counties responsible for overall policy coordination within the planning framework set forth by the Legislature.[xl]

(A copy of Thurston County's County-Wide Planning Policies is included in Appendix 3, showing how one county dealt with the issues raised.)

The Central Puget Sound Growth Management Hearings Board has made it clear that in its jurisdiction a county may not alter the fundamental tenets of growth management planning through its planning policies. This includes the requirement that cities must be urban service providers within urban service boundaries.[xli]

iii. Designation of Urban Growth Areas

Once counties adopted the county-wide planning policies, the next step was to designate urban growth areas.

One cornerstone of GMA is that new development that requires urban services should occur within defined urban growth area boundaries. "Urban growth areas" are defined as,
areas within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature.[xlii]

The rules for urban growth areas are:

- *All cities shall be in urban growth areas.*

- *Urban growth areas shall permit the "urban growth" projected to occur in the county within the next 20 years, based on urban densities, predicted rate of growth, and greenbelt and open space areas.*

- *Urban growth shall occur first in areas already characterized by urban growth with existing public facilities and services, and, second, in areas already characterized by urban growth that are not yet served by public facilities and services, but that will be served by such facilities and services.*[xliii]

Establishing urban growth areas (UGAs) was a major step local communities took in managing their growth. Fully planning communities had to design UGAs to include "areas and densities sufficient to permit the urban growth that is projected to occur in the county or city for the succeeding 20-year period."[xliv] To provide for growth, local communities needed a thorough understanding of what land was realistically developable, available, and suitable for growth within their communities. Each community had to complete an inventory of available land for development. Based upon that information, and on proposed densities within the UGA, the community calculated how much land was needed to accommodate the projected population before proposing its UGA.[xlv]

Fully planning communities must review, at least every 10 years, their designated UGAs and the densities permitted within both the incorporated and unincorporated portions of each UGA. The UGAs and densities will then be revised to accommodate the projected growth for the succeeding 20-year period.[xlvi] As noted previously, cities and counties must also update their comprehensive plans and development every seven years to ensure on-going consistency with evolving GMA requirements. Part of this seven-year update also involves an update of population forecasts. Because of this overlap in population forecasting between the seven- and ten-year updates, some communities combine both update processes to avoid duplicative efforts.

One of the more challenging issues in designating urban growth areas is determining the densities allowed within and outside them. Densities within urban growth areas must be urban, and rural outside, in order to provide for the efficient use of public infrastructure and services and to avoid the problems associated with urban sprawl. The state's three GMA hearings boards each have developed their own guidelines on what constitutes urban and rural densities. The Central Puget Sound Growth Management Hearings Board has adopted a "bright line rule" dictating zoning designations requiring a minimum net density of four dwelling units per acre within urban growth areas. Maximum densities of one dwelling unit per five or ten acres are generally required by the Board for areas outside of urban growth areas. The Eastern and Western Growth Management Hearings Boards focus more on a case-by-case analysis. The Western Board has ruled that zoning designations allowing two to four dwelling units per acre does not constitute urban densities. It also indicated that one dwelling unit per five acres can qualify as a rural density if other rural zoning districts require lower densities to off-set the density. The Eastern Board has ruled that a rural density of one unit per five acres is difficult to justify and that it is skeptical of any rural density designations more dense than one dwelling unit per ten acres.

iv. The Requirements for Regional Planning

The Legislature has specified several regional tasks that must be implemented through growth management planning.

1) Regional Transportation Planning[xlvii]

The Legislature has determined that Washington's transportation system[xlviii] should function as "one interconnected and coordinated system."[xlix] At all jurisdictional levels, it mandated, transportation planning *should be coordinated with local comprehensive plans.*[l]

Regional Transportation Planning Organizations (RTPOs), authorized by the Legislature, were created to facilitate this cooperation. They are required to:

- Encompass at least one complete county.
- Have a population of 100,000 or a minimum of three counties.
- Have as members all counties in the region and at least 60% of the cities and towns in the region representing a minimum of 75% of the population of the cities and towns.[li]

A Regional Transportation Planning Organization (RTPO) is charged with the following tasks:

- Identify a lead agency to carry out organizational tasks.
- Develop and adopt a regional transportation plan.
- Review the plan biennially to make sure it is current.
- Provide the plan to the state Department of Transportation.
- Participate in policy decisions.
- Create a Regional Transportation Policy Board to permit local employers, transit agencies, ports, and others to participate in policy decisions.[lii]
- Establish level of service standards for state transportation facilities that are not of statewide significance.
- Include highways of statewide significance. (WSDOT has the responsibility for setting the level of service standards on these facilities.)
- Develop guidelines and principles for the development and evaluation of transportation elements of local comprehensive plans. Certify that local transportation elements are consistent with the adopted regional plan.

- Prepare transportation strategy to guide the preparation of the regional transportation plan.[liii]

The teeth of the Regional Transportation Planning Organization are found in several provisions:

- The organization must certify that within its jurisdiction the comprehensive plan of each locality planning under the GMA is consistent with the regional transportation plan and county-wide policies, and that the regional plan is consistent with the county-wide policies.[liv]

- The regional plan shall specifically address existing or anticipated planning projects which affect more than one jurisdiction; or in which the impacts could be mitigated by adhering to the regional plan.[lv]

- All transportation projects within the region which affect regional facilities "must be consistent" with the plan.[lvi]

- The regional plan must be based on "least-cost planning" and identify the most cost-effective facilities, services, and programs. The plan must identify facilities and programs aimed toward an integrated regional transportation system. The plan must include a financial plan that demonstrates how the plan can be implemented. And the plan must make assessments necessary to preserve and use efficiently the existing regional transportation system.[lvii]

- All six-year transportation programs and transit development programs must be consistent with the county's or city's adopted comprehensive plan. (This applies to all counties and cities.)

2) Local Agency Coordination with GMA Plans

Original GMA legislation required all "special districts" (except ports and municipal airports) to conform with state policy in their land use activities, including capital budget decisions. These special districts also had to comply with the comprehensive land use plan of the county or city having jurisdiction in the area where the activities occur. The Governor vetoed this requirement, however, because the exemptions for port districts and municipal airports were unacceptable.[lviii]

Despite the lack of required consistency under the GMA, special districts may find their large scale, regional projects approved more swiftly if the projects are identified in local community plans. This is done through the process of identifying essential public facilities. The courts have emphasized the need for certainty and adequate standards for measuring a project against a plan.[lix] Communities may want to consider specifically designating facilities critical to special district or state agency operation during the comprehensive planning process. At the very least, the community should identify some locational or objective criteria for measuring conformance.

In 1991, the Legislature added state agencies to those required to plan in conformance with local comprehensive plans.[lx] This requirement has lead to some litigation, as local jurisdictions and state agencies attempt to resolve differences in planning efforts on facilities such as ferry terminals and state highways.

3) Essential Public Facilities

Each fully planning community is required to create a process for identifying and siting essential public facilities.[lxi] Such facilities include those facilities that are typically difficult to site, such as:

- Airports
- State educational facilities
- State and regional transportation facilities
- State and local correctional facilities
- Solid waste handling facilities
- Inpatient facilities, including substance abuse, mental health, and group homes.[lxii]

The requirement to site "essential" public facilities raises the question of what obligation a county or city has to provide for the needs of smaller, special purpose districts. The issue is whether a city or county, within its own jurisdiction, may bar or substantially limit a project planned by a special purpose government or state agency.

Courts have ruled that special districts must conform to the requirements of the locality in which they are developing.[lxiii] Further, a community may preclude incompatible uses from certain zones, so long as it makes "reasonable provision" within the larger community for the facilities necessary to operate the special district.

Thus, a city or county could require sewer and water districts to locate essential facilities within areas of appropriate zoning, such as commercial or industrial, rather than residential areas.[lxiv] At the very least, a community may place reasonable restrictions on a project to assure compatibility or to mitigate impacts. The community may be limited in its actions, however, because a special district must be allowed to provide its statutorily mandated services reasonably within the district boundaries. If a sewer district needs a sewer plant in a residential area to meet statutory obligations to its constituency, for example, the community may not use zoning or its comprehensive plan to frustrate that purpose.[lxv]

The Supreme Court uses the language of due process and reasonableness in reviewing such cases. When a subordinate jurisdiction requires a particular facility to accomplish its tasks, a municipal ordinance that forbids (rather than reasonably conditions) such uses, would be examined closely to determine whether the prohibition is, in fact, "reasonable."[lxvi]

Courts have also ruled that unsubstantiated, generalized community fear is an irrelevant consideration when deciding where to site essential public facilities.[lxvii] The Legislature recognized that the location of essential public facilities might encounter local opposition. It therefore enacted RCW 37.70A.200(2), which provides that no local comprehensive plan or development regulation may preclude the siting of such facilities.[lxviii] The Central Puget Sound Growth Management Hearings Board has also ruled that a local government plan may not, through policies or strategy directives, effectively preclude the siting or expansion of an essential public facility, including its necessary support activities.[lxix] However, the Board has found that precluding a facility means to render its siting "impossible or impractical."[lxx] This still leaves relatively wide discretion to regulate essential public facilities, such as limiting them to specified zoning districts, imposing separation requirements and requiring conditional use permits.[lxxi]

The GMA does not define all essential public facilities. The statute states that they are "facilities that are typically difficult to site."[lxxii] The Procedural Criteria further assist local governments with the process for siting essential public facilities.[lxxiii]

All special purpose government agencies should identify which facilities are "essential" to their legislative purpose. Working with cities or counties, as appropriate, these junior districts can assure that these facilities will be integrated into the city and county comprehensive plans, and will fit in the larger community planning program.

One type of essential public facility that has received significant attention from both the state legislature and local communities are secured community transition facilities (SCTF), which are transition homes for sexually violent predators.[lxxiv] The Washington State Department of Social and Health Services interpreted applicable state legislation as requiring cities and counties to incorporate limited zoning restrictions on SCTFs by September 1, 2002 or to be preempted from providing any zoning regulation. Some cities and counties chose to be voluntarily pre-empted from adopting any zoning regulation, because preemption gave those cities and counties an opportunity to participate in a mediation process on the location of the SCTFs not available to communities that are not preempted. The range of authority non-preempted cities and counties had to regulate SCTFs was extremely limited, giving further incentive for communities to choose preemption.

4) Regional Service Delivery Agreements

Sometimes providing various government services extends over jurisdictional boundaries. In order to establish which jurisdiction should provide the government service, counties, cities and special districts are encouraged to develop local service agreements.[lxxv] In addition to specifying the jurisdiction responsible for providing the service, the local governments can transfer certain revenues among them.[lxxvi] These delivery agreements prove to be especially useful in urban growth areas, where properties are transitioning from county to city jurisdiction. Some of the types of issues addressed in such agreements are as follows:

- Should the County be reimbursed for any infrastructure it constructs that is subsequently annexed into a city?

- What development standards and level of service standards should be required of new developments?

- Under what situations should a city, as opposed to a special district, provide utility service?

- Who will continue to process development permits for land that is annexed into a city during permit review?

- What role should the city play in the review of development permits in unincorporated UGA's, since these properties will soon annex into the city?

An example of a delivery agreement is attached as Appendix 4.

c. Comprehensive Plans: The Heart of the Redefined Planning Process Under GMA

A community's comprehensive plan addresses the central issue of how it will balance and resolve competing demands on its public facilities and resources, as well as locally competing goals and objectives. Comprehensive plans are detailed later in this chapter, but the key priorities in comprehensive planning are as follows:

KEY PRIORITIES IN COMPREHENSIVE PLANNING

- All comprehensive plans are to be measured against the goals and requirements of the GMA.

- All comprehensive plans must comply with county-wide planning policies.

- All official controls and developmental and environmental regulations must be consistent with comprehensive plans.

- All comprehensive plans must be internally consistent.

- All comprehensive plans must be coordinated and consistent with the comprehensive plans of adjacent jurisdictions.

- All developments, including private and public, at every level of state, local, general purpose, and local special purpose, must be measured for consistency with the comprehensive plan.

- All comprehensive plans must ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.

- Any community which cannot demonstrate the financial ability to accommodate its planned growth patterns must reexamine its land use patterns or its financing plans.

A comprehensive planning program (with its conforming implementing regulations) must constantly weigh the community's financial ability to support development against its population allocation obligations and need for environmental protection.

Comprehensive planning is the cornerstone of the GMA planning process. Past comprehensive plans tended to be visionary guides to community desires, but were usually not reflected in the regulations and facilities that drove the community's day-to-day development. In some communities, there was no requirement for a plan beyond a map that conveyed a sense of orderly development.[lxxvii]

The centerpiece of the new GMA comprehensive plan is the "future land use map." All of the elements of the plan must be internally consistent and consistent with the vision expressed by the future land use map.[lxxviii]

Achieving internal consistency in the comprehensive plan is especially challenging. Communities are now required to include elements that often involve competing goals, while balancing other considerations in the final document. Following is a summary of a community's mandatory planning elements, including key points to be considered.

d. Mandatory Comprehensive Planning Elements for Growth Management

i. Land Use

A land use element includes land uses and densities, resource protection, population projections, and public facilities. In addition, the land use element is required to consider protection of public water supplies, storm water (both in the community and in adjacent communities), and "provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state."[lxxix]

The land use element is a guide for orderly development of the community (the purpose of the old plans). This element, more than any other, describes the "big picture" how a community chooses to balance the competing goals of the GMA. Key components of the land use plan are maps showing the future shape of the community and how its essential components will be distributed. Resource lands, critical areas (where known), open space corridors, residential, commercial, industrial, and major public and private facilities should all be addressed.

The land use element is also at the forefront of community clean water regulation, including surface water and storm water from point and non-point discharge sources. The clean water component overlaps with state and federal regulations, including the National Pollution Discharge Elimination System (NPDES) authorized by the Federal Clean Water Act and administered by the state Department of Ecology; Hydraulic Project Approvals (HPAs) issued by

the Washington State Department of Fish and Wildlife; and other water quality regulations. (See also Chapter 6, "Planning and Environmental Legislation.")

Clean water requirements have been mandatory in the comprehensive plan since 1984 and 1985, when the Legislature adopted two mandates. The first specifies ground water protection:

> The land use element [of a comprehensive plan] shall also provide for the protection of the quality and quantity of the ground water used for public water supplies.[lxxx]

The second specifically controls runoff to Puget Sound:

> The land use element shall review drainage, flooding, and storm water runoff in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute Puget Sound or waters entering Puget Sound.[lxxxi]

Because municipal storm systems and roadways are major sources of point and non-point runoff in urban areas that affect both for surface and ground water, the comprehensive plan becomes a self-examining and policing mechanism. Potential pollution sources must be identified and targeted for control through the comprehensive planning process, and coordinated with the community's existing programs.

ii. Housing

A housing element addresses the "vitality and character of established residential neighborhoods." It contains inventories of existing and projected housing needs, creates a policy base for encouraging housing, and identifies "sufficient land" for all types of housing, including low income, manufactured, multifamily, group homes, and foster care facilities, while making adequate provisions for all of the economic segments of the community.[lxxxii]

Housing development is one of the greatest challenges facing our communities.

COMMUNITY CHALLENGE:

How does a community protect the vitality and integrity of existing residential neighborhoods, while providing for greater densities? Higher density is needed to meet transit objectives, to meet affordable housing demands, and to provide services in a cost-effective orderly manner. The challenge becomes difficult when existing low-density, single-family neighborhoods occupy much of the community's prime and easily developed land. Available land remaining to meet these goals is often subject to competition from other important goals, such as wildlife and wetland protection, given equal emphasis under the GMA. Early community involvement and neighborhood-friendly design can help to integrate new higher density housing into existing neighborhoods.

Under the GMA, local governments are required to provide for "group homes" in the housing element of their comprehensive plans.[lxxxiii] The term "group home" applies to many types of residences. Usually the term is used for homes where the residents live and receive care or supervision.

The state has preempted local jurisdictions from including prohibitions against adult family homes, facilities for four to six developmentally disabled adults or senior adults in areas zoned for single-family residences.[lxxxiv] The definition of adult family homes includes homes that are operated by non-resident providers.[lxxxv]

In 1993, the state Legislature passed the Washington Housing Policy Act (WHPA).[lxxxvi] WHPA, now part of the planning process, fosters safe and affordable housing. It requires local governments to incorporate recommendations for accessory apartments if they are planning fully under the GMA, if they are a city with a population that exceeds 20,000, or if they are counties with a population exceeding 125,000. These recommendations, developed by CTED and the Housing Advisory Board,[lxxxvii] encourage development and placement of accessory apartments in areas zoned for single-family residential use.[lxxxviii]

The WHPA also prohibits including in ordinances, development regulations, zoning regulations, or other official controls any provision that treats residential property housing the handicapped differently than similar structures housing a family or other unrelated individuals.[lxxxix] It mirrors language from the federal Fair Housing Act that prohibits discrimination because of race, color, religion, sex, handicap, familial status, and national origin. All group homes, because they are used as residences, count as a dwelling under these federal and state laws. This means that the prohibition against discrimination applies. These protections apply against discriminatory zoning, land use restrictions, or restrictive covenants.xc.

Another new piece of legislation prohibits cities and counties from discriminating against manufactured housing in their development regulations.[xci] Cities and counties can no longer treat manufactured homes differently from stick-built homes, including the zoning districts in which they are allowed. However, the legislation does grant cities and counties some limited zoning authority to regulate design specifications such as roof pitch, siding and foundation.

iii. Capital Facilities Planning

A capital facilities plan includes inventories of existing facilities showing both "location" and "capacity," a forecast of future needs, the proposed location and capacity of new facilities, and a six-year plan to finance such facilities from identified funding sources. Where "probable funding" falls short of meeting "existing needs" the land use element is to be reassessed to "ensure that the land use element, the capital facilities plan element, and the financing plan within the capital facilities plan element are coordinated and consistent."[xcii]

The link between a community's financing capability, adequate capital facilities, and the ability of these facilities to meet "existing needs" based on the land use plan is at the heart of growth

management planning. Finding the appropriate balance among these competing factors poses one of the greatest challenges to planning communities.

COMMUNITY CHALLENGE:

The challenge in capital facilities planning is to identify affordable and appropriate levels of service (LOS) for the community. Levels of service (LOS) measure the quality and quantity of services that will be delivered in a community. If service levels are too high, a community cannot afford to make needed improvements to substandard facilities. If the city or county prohibits development for an unreasonable amount of time due to unattainable level of service standards, it could be held liable to property owners for a taking of their property without compensation.[xciii] If service levels are set too low, the quality of life in the community could deteriorate. Levels of service reflect a community's values and willingness to pay for public facilities. That is why it is important to involve the community in setting levels of service in a meaningful way and for the public to have good information on what the effects of setting certain levels of service will be.

If population increases exceed a community's ability to provide capital facilities, it must reexamine land use plans to reestablish a reasonable balance. Adequate and timely availability of capital facilities is one component of the concurrency doctrine covered later in this chapter.

iv. Utilities

A utilities element includes an inventory and "general" location, "proposed location," and capacity of existing and proposed utilities, including natural gas, electricity, and telecommunications.[xciv]

The utilities section requires a community to provide adequate utility capacity to support its planned growth. Effective comprehensive planning depends on how well the community has done its local utility planning; and on planning by private and public utilities, which may or may not be synchronized with local community plans.

COMMUNITY CHALLENGE:

The utility planning requirement raises an important issue in identifying future "general locations" of such facilities. If a property is zoned for a utility corridor (be it streets or other facilities), courts may impose an obligation to acquire or forego the designated facility sites. A community may not identify a private site for public use in planning documents, and later refuse to permit development for other uses without acquiring the site. (See the discussion of appropriation for public purpose in the "taking" section, Chapter 4.)

Further, utility companies and communities must coordinate local utility planning to reflect population shifts and allocations. This will assure that planned utilities can accommodate future growth. Without coordination, a community may be unable to demonstrate that its facilities are "adequate" to meet projected growth. Such a finding would mandate revisions of the land use plans to bring the plans, facilities, and finances into line.

v. Rural Areas

A rural element includes lands that are not designated for urban growth, agriculture, forest, and mineral resources.[xcv]

The rural element of the comprehensive plan is required only for counties. It is intended to aid in regulating lands outside urban growth areas that are not already protected under the long-term commercial agricultural, mineral, and forest lands designation.

Even with large lot and other regulatory zoning measures in rural areas, the cost of development in urban areas (plus attendant urban facilities costs) could drive lower-income housing into rural areas where counties can least afford to provide adequate services.

Starting in 1994, a number of changes were made to the rural provisions contained in the GMA.[xcvi] Each county must now document in writing how the rural element of its comprehensive plan harmonizes the planning goals of the GMA and meets the planning requirements of the GMA. Counties must provide for a variety of rural densities, uses, essential public facilities, and rural governmental services. However, they must protect rural character by containing or controlling development, assuring visual compatibility, reducing sprawl, protecting critical areas, and protecting against conflicts with the use of natural resource lands.[xcvii]

Limited areas of more intensive rural development (LAMIRDs) are permitted in rural areas, including necessary public facilities and public services, if they are based on existing development and are not provided in a manner that permits low-density sprawl. Small-scale recreation or tourist uses, cottage industries, and small-scale businesses that provide jobs for rural residents are allowed.[xcviii] Logical outer boundaries must be drawn to minimize and contain more intense development. The boundaries are delineated predominantly by the built environment. These limited areas of more intense development must have been in existence as of July 1, 1990, or on the date the county opted to, or was required to, plan under the GMA. A detailed discussion on the designation of LAMIRDs and other options for rural development are contained in the CTED publication *Keeping the Rural Vision Protecting Rural Character and Planning for Rural Development*, which can be accessed at http://www.cted.wa.gov/_cted/documents/ID_974_Publications.pdf.

RCW 36.70A.365 allows counties to establish, in consultation with cities, a process for reviewing and approving proposals to authorize the siting of specific major industrial developments outside urban growth areas. Major industrial developments must require a parcel of land so large that no suitable parcels are available within the UGA, or must be a natural resource-based industry that requires a location near the resource lands on which it is dependent. Upon approval, the development will be designated as a UGA. At a minimum, a major industrial development must meet the following statutory criteria:

- New infrastructure is provided for and/or applicable impacts fees are paid;
- Transit-oriented site planning and traffic demand management programs are implemented;
- Buffers are provided between the major industrial development and adjacent non-urban areas;
- Environmental protection including air and water quality has been addressed and provided for;
- Development regulations are established to ensure that urban growth will not occur in adjacent nonurban areas;
- Provision is made to mitigate adverse impacts on designated agricultural lands, forest lands, and mineral resource lands;
- The plan for the major industrial development is consistent with the county's development regulations established for protection of critical areas; and
- An inventory of developable land has been conducted and the county has determined and entered findings that land suitable to site the major industrial development is unavailable within the UGA. Priority shall be given to applications for sites that are adjacent to or in proximity to the UGA.

The process established by RCW 36.70A.365 is triggered by an application for a major industrial development. The legislature recognized that going through this process, which includes the amendment of a comprehensive plan, could be a lengthy process that could make it difficult for counties to attract new industrial development. In light of this, the legislature has authorized some counties to designate "industrial land banks" through RCW 36.70A.367. This allows specified counties to designate areas for major industrial development within their comprehensive plans in the absence of any specific development applications for major industrial development. The criteria for designating these land banks in the comprehensive plan and approving specific industrial developments within the banks at the permitting level are similar to the standards involved in the approval of major industrial developments under RCW 36.70A.365. The counties that can currently designate industrial land banks are Whatcom, Clallam, Jefferson, Mason, Grays Harbor, Lewis, Clark, Klickitat, Benton, Yakima, Walla Walla, Columbia, Garfield, and Asotin. An amendment in 2004 to RCW 36.70A.367 clarified which land bank standards apply to the comprehensive plan process and which applied to development review. The amendments also limited industrial land banks to two master planned locations.

Another 2004 GMA amendment authorizes accessory uses for agricultural lands of long-term commercial significance. These accessory uses are defined as uses that support, promote, or sustain agricultural operations and production. With specified limitations, these accessory uses can include storage and refrigeration of regional agricultural products; production, sales, and marketing of value-added agricultural products derived from regional resources; supplemental sources of on-farm income that support and sustain on-farm agricultural operations and production; support services that facilitate the production, marketing, and distribution of

agricultural products; and off-farm and on-farm sales and marketing of predominantly regional agricultural products and experiences, locally made art and arts and crafts, and ancillary retail sales and service activities.

COMMUNITY CHALLENGE:

While it may appear that housing is more affordable in rural areas, the actual cost to the homeowner in commute time to employment and urban services can increase the cost of living in a rural area. Also, the cost to the county of providing adequate services should be considered in determining whether housing in the rural area is really affordable. For example, an increased number of people in rural areas will require more roads for commuting, as well as increasing the demand for adequate fire and police protection.

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vi. Transportation

A transportation element includes:

- Land use assumptions used in estimating travel, facilities and service needs, including inventory of existing facilities and capacity;
- Level of service (LOS) standards for all locally-owned arterials and transit routes;
- Corrective actions for all local facilities below established standards;
- A 10-year traffic forecast;
- Identification of expansion needed to meet present and future demand;
- Financial resources and needs assessments, including analysis of capacity to judge need against ability of a multi-year funding plan; if funding plans are inadequate, a discussion of new funding sources or a reassessment of the land use plans;
- Impact analysis of new plans on adjacent communities to assure coordination demand;
- Management strategies to reduce travel impact for existing and new development; and
- A requirement for concurrency or adoption of codes that prohibit development that will cause facilities to fall below established levels of service (LOS), unless new facilities are provided or strategies are in place to avoid degradation below established service levels.[xcix]

The transportation requirements of the comprehensive plan are all encompassing. The level of detail implied in the GMA creates an especially complex task for communities planning fully under growth management.

Transportation service levels are often measured by efficiency of traffic flow. An "A" level of service equates to a smooth, uninterrupted flow; an "F" level is a traffic network overcrowded to the point of failure. Other measures also are used, such as volume/capacity ratio.

COMMUNITY CHALLENGE:

Establishing the appropriate level of service (LOS) is key. If a community establishes a service level exceeding its actual needs, it must fund the deficit to make up existing deficiencies. Local taxpayers, in effect, will shoulder the burden of funding years of neglect of older facilities. If a community adopts existing levels of service, new development will be permitted to build to these existing levels whether or not this is the level ultimately desired or actually experienced by the community. If existing levels cannot be maintained, or if new levels are not obtained within a reasonable period of time achieving the GMA's required "concurrency," new construction can be prohibited until the problems are solved. Communities must find level of service strategies, which the public and private sectors can financially sustain. Transportation levels of service/concurrency requirements must be carefully weighed and measured. These will be significant hurdles to redeveloping older areas and increasing the urbanization and densities of lower density areas. If transportation systems and concurrency requirements are not programmed adequately, a real risk of a moratorium exists in many communities until a successful pattern for dealing with transportation issues emerges.

COMMUNITY CHALLENGES:

1) The most difficult challenge will be to fund transportation improvements without placing an unacceptable burden on the elderly, first-time urban home buyers, and others who are least able to pay. The conflict between existing demands on older transportation networks, the high cost of upgrades, and the burden on affordable housing will not be easy to manage.

2) The perception or reality that existing roads cannot handle present traffic, and that they would be overtaxed by significant new levels of use, would be a barrier to increasing densities in existing urban and suburban areas. To encourage the use of transit, many communities accept lower levels of service for automobiles (i.e., increased congestion). They increase density and actively discourage single-occupancy vehicles. Other communities have developed a level of service designation for a grid or group of facilities, recognizing that constant upgrades to a single, overcrowded intersection does little to aid overall transit and transportation.

3) Strategies to integrate new, higher density projects into existing transportation networks may allow reduced levels of service (increased congestion), but require improvements to other transit services, bicycle lanes, and sidewalks. This helps reduce dependency on auto-based transportation.

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vii. Urban Growth Area

The designation of urban growth areas is addressed in Section E(2)(b)(iii) of this manual on page 3-18.

COMMUNITY CHALLENGE:

Designation of urban growth areas will challenge communities that face increasing growth (as projected by the Office of Financial Management), but whose current tax base can only marginally provide existing services. While a city in this situation should proceed to design the urban growth area to reflect its ability to pay for services that will meet future growth, financing techniques are available to help meet service requirements. These include latecomers' agreements, developer extensions, local improvement districts, impact fees, authorized increased excise taxes, and state and federal grant programs.

viii. The Buildable Lands Program

In addition to the basic GMA review and evaluation requirements, the six larger counties and the cities within their boundaries in Western Washington have to meet special requirements for monitoring land supply and urban densities under 1997 amendments to the GMA.[c] This GMA review and evaluation program is often referred to as the Buildable Lands Program. Snohomish, King, Pierce, Kitsap, Thurston, and Clark counties and all their cities are required to collect data and monitor development within their UGAs. They must use this information to determine whether the county and cities are achieving urban densities by comparing growth and development assumptions, targets, and objectives contained in the county-wide planning policies and the county and city comprehensive plans with actual growth and development that has occurred. The first evaluations were due for completion by September 1, 2002, with subsequent evaluations every five years after that.

ix. Public Participation

The adoption of all plans, amendments, and regulations requires a concerted effort to involve large segments of the affected populations.[ci]

While techniques for disseminating information and soliciting and considering public comment will vary, communities must address their outreach obligation. Local governments should develop a plan for public participation. (See Chapter 2 of this manual: "The Public Process.")

x. Lands for Public Purpose and Open Space Corridors

The GMA requires all fully planning communities to designate lands for public purposes, such as schools, solid waste sites, sewage treatment facilities, and other public uses. The region is to come up with a coordinated plan for the acquisition of such facilities.[cii]

Communities must also designate "open space" corridors within and between urban growth areas. Open space areas are to be used for "recreation, wildlife habitat, trails, and connection of critical areas."[ciii]

In designating and acquiring land for public purposes and open space, care must be taken that local government does not violate the constitutional rights of property owners. As discussed in Chapter 4, if property uses are regulated beyond constitutional limits of reasonableness, or property rights are taken without just compensation, then the local government may owe the property owner compensation.

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xi. Essential Public Facilities

The GMA requires cities and counties fully planning under the GMA to include in their comprehensive plan a process for identifying and siting essential public facilities. This topic was previously addressed in Section 3(E)(2)(b)(iv)(3) of this chapter.

e. Zoning and Official Controls: The Coordination of Local Development Regulations and the Requirements for "Consistency" with Comprehensive Plans

IMPORTANT NOTE:

In 1997, the Washington Supreme Court ruled that where there is inconsistency between a specific zoning regulation and the comprehensive plan, the zoning regulation prevails.[civ] Referring to pre-GMA cases, the court ruled a comprehensive plan is not a document designed for making specific land use decisions, although the court noted that proposed land use decisions must "generally conform" to the comprehensive plan.

This ruling does not mean that cities and counties do not have to worry about consistency between comprehensive plans and development regulations. If someone files a challenge to a Growth Management Hearings Board within the requisite 60 days of adoption, the Hearings Board can still invalidate a regulation if it is inconsistent with a comprehensive plan designation. However, if the regulation is not challenged within the 60 days, the regulation's validity in relation to the GMA can no longer be challenged and the courts will construe development regulations as controlling whenever they conflict with comprehensive plans.

The comprehensive plan provides the policy framework for future development in the community. The development regulations implement the plan policies with specific standards and requirements for development. Each county and city fully planning under the GMA must adopt development regulations that are consistent with and implement the comprehensive plan.[cv]

The Planning Enabling Act uses the term "official controls" to describe implementing

regulations:

> "Official controls" means legislatively defined and enacted policies, standards, precise detailed maps and other criteria, all of which control the physical development of a county or any part thereof or any detail thereof, and are the means of translating into regulations and ordinances all or any part of the general objectives of the comprehensive plan. Such official controls may include, but are not limited to, ordinances establishing zoning, subdivision control, platting, and adoption of detailed maps.

The GMA uses the term "development regulation" which includes:

> ... the controls placed on development or land use activities by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto.[cvi]

The GMA mandated a statewide consistency doctrine by stating that all development regulations, as defined, must be consistent with adopted comprehensive plans. The deadline for the consistency requirement for counties and cities not fully planning was July 1, 1992.[cvii]

All counties and cities fully planning under the GMA shall enact:

- development regulations which are consistent with and implement the comprehensive plan.[cviii]

Each county and city fully planning under the GMA:

- shall perform its activities and make capital budget decisions in conformity with its comprehensive plan.[cix]

A county or city's development regulations should include any other regulations that are required to be adopted per the comprehensive plan. Development regulations should also include transportation concurrency provisions under RCW 36.70A.070(6)(b).

The initial 12 counties with populations of more than 50,000 and their cities required to fully plan under the GMA had a deadline of July 1, 1994, to complete their comprehensive plans. Three smaller counties and their cities also fully planning had a deadline of January 1, 1995. Counties and their cities required later to fully plan and those counties and their cities choosing to plan under the GMA have four years to complete their plans.[cx] The zoning ordinance is essential to implement the land use element of the comprehensive plan. The zoning map should be consistent with the future land use map in the comprehensive plan. It may be more detailed than the comprehensive plan map, but it should reflect the densities and uses designated in the comprehensive plan.

As previously noted, the Shoreline Master Program regulations are considered development regulations. The shoreline designations should be reviewed for consistency with comprehensive plan and zoning designations. In 2003, however, the legislature clarified that except for internal consistency between Shoreline and GMA regulations and policies, the Shoreline regulations are to be consistent with the requirements of the Shoreline Management Act ("SMA"), not the GMA.[cxi] If critical areas are subject to a shoreline master program (which would be within 200 feet of shorelines and their associated wetlands), they also would only be subject to requirements of the SMA. Notably, best available science requirements do not apply to SMA regulations or critical areas subject to the SMA, but the SMA must protect critical areas at a level at least equal to that required by the GMA.

As previously noted, the GMA requires cities and counties to ensure that public services and facilities necessary for development are adequate to serve development. Transportation facilities, however, are singled out for more rigorous treatment for fully planning communities. Such counties and cities are required to:

> [A]dopt and enforce ordinances which prohibit development approval if the development causes the level of service on a locally owned transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development. These strategies may include increased public transportation service, ride sharing programs, demand management, and other transportation systems management strategies. For the purposes of this subsection (6) "concurrent with the development" shall mean that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years.[cxii]

All regulations affecting development, and amendments to those regulations, should go through the public participation process required by the GMA and other state planning laws. They are also subject to 60-day notice requirements to the Department of Community, Trade and Economic Development. When adopted, these regulations need to be submitted to the state within ten days of adoption, as is required for all comprehensive plans and plan amendments.[cxiii]

PRACTICE TIP: Communities will achieve the required "conformity" between plans and action more readily if they can express their priorities (or ways to set priorities among conflicting goals) in their comprehensive plan. The plan should not seek to be all things to all people. Long recitations of competing and inconsistent goals do little to guide the resulting regulatory or administrative framework. Courts have said that regulations forcing decision-makers to "guess" the desired result, or substitute their own values for objective measurement, may be constitutionally defective due to vagueness.[cxiv]

Consistency between plans and regulations, and plans and capital facilities, establishes the comprehensive plan as the standard by which all subsequent actions will be judged. For the required consistency and conformity, comprehensive plans must be written with enough specificity so decision-makers can choose between competing values and set priorities for

community action. (See discussion of the vagueness inquiry in Chapter 4 of this manual.)

As difficult as it may be, communities must try to express the balance they desire or will emphasize to meet community goals. An appropriate example might be a guiding policy that accepts higher levels of congestion to meet goals of urban intensification and affordability.

A community that clearly identifies trade-offs (or how to determine trade-offs between competing objectives), potentially can allow appropriate consumption of buildable land while protecting community values, e.g., neighborhood integrity and environmental values. But the community must state the tradeoffs, and identify how to decide the proper balance, when the inevitable conflict occurs.

f. Concurrency Requirements

During the growth management debate of the late 1980's, a common complaint was that development would outstrip the ability of communities to provide adequate municipal facilities.

The GMA deals with this problem at two levels: At the regulatory level, a community must be able to demonstrate its ability to finance the capital facilities it needs to meet its planned land use. If the community does not have the financial ability to serve its planned loads or facility needs, it must reexamine its land use assumptions.[cxv] The key issue here is "concurrency" at the planning or development regulation level.

Concurrency at the project level is more complex. Community development patterns are often "out of sync" with a community's capital facility plans. Historic use and maintenance patterns may create overcrowding or limited use, with little additional capacity for new growth and development.

At the project level, the GMA requires cities and counties to prohibit development approval if the development causes the level of service on locally owned transportation facilities to decline below the standards adopted in the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development. Concurrent with development means that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years.[cxvi] Cities and counties have the option, but are not mandated, to adopt similar "concurrency" ordinances requiring adequate services at the project level for other types of public facilities as well. In making development contingent upon meeting concurrency requirements, cities and counties need to make sure that property owners are not precluded from developing their properties for unreasonable periods of time because meeting level of service standards is not possible without the owners paying for more than their proportionate share of public improvements. Under these circumstances, the unreasonable delay could be construed as a de facto development moratorium, entitling the property owner to damages for a constitutional taking of property without compensation.[cxvii]

The concurrency requirement is mentioned at several points in the GMA, including its goals:

> Public Facilities and Services. Ensure that those public facilities and services necessary to support development shall be adequate to serve development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.[cxviii]

"Public facilities" include, streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.[cxix]

"Public services" include, fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.[cxx]

Thus, at the planning level, "concurrency" runs the full range of governmental responsibility.[cxxi]

Concurrency at the regulatory level is specified in the capital facility element of the comprehensive plan. Local communities are to:

- Inventory existing facilities;
- Forecast future needs;
- Locate and size future facilities;
- Project funding capabilities;
- Reassess land use plans if funding capabilities are inadequate.[cxxii]

To accomplish this task, a jurisdiction must 1) establish level of service standards; 2) measure the degree to which the community does not meet the level of service under present conditions; and 3) measure the cost to the community of paying for existing service deficiencies, and the cost of extending or upgrading facilities to meet new demands.

The concurrency requirement for the transportation element of the comprehensive plan mandates assessment of specific levels of service and needed facilities, as well as funding sources to assure coordination:

> If probable funding falls short of meeting identified needs, a discussion of how additional funding will be raised, or how land use assumptions will be reassessed to ensure that level of service standards will be met.[cxxiii]

The GMA's mandate for concurrency demands that communities face reality. Communities that cannot or will not provide adequate financing will not meet this test. They must identify appropriate levels of service to meet lower budgets or reassess their land use plans to find ways to decrease demands for public facilities.

COMMUNITY CHALLENGE:

Elected officials, planning commissions, and citizens must struggle to balance existing and desired levels of service with the ability to finance upgrades of possible deficiencies and future expansion. One longstanding concurrency requirement, modified a little by GMA legislation, has been in place since the adoption of the subdivision code in 1889. Under the state subdivision code, no plat or short plat may be approved unless the approving authority makes written findings that appropriate provisions are made for open spaces, drainage ways, streets or roads, alleys, and other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts.[cxxiv]

F. Growth Management Hearings Boards[cxxv]

Regional planning and coordination, concurrency between services and development, and consistency between official controls and adopted plans are now mandatory for communities which are required or have chosen to plan under growth management. Mandatory planning and mandated planning procedures, however, have not shifted away from the basic elements of the planning process. Local planning commissions will continue to make the primary planning recommendations and local elected officials will be the principal arbiters of local issues, visions, and standards. But now, three Growth Management Hearings Boards resolve disputes as to whether local officials have met regional and statewide objectives.[cxxvi] The Central Puget Sound, Western Washington, and Eastern Washington Hearings Boards were created to review the petitions of the state, citizens, other local governments, or other affected parties, and determine the consistency of local comprehensive planning decisions with the goals and requirements of the GMA and SEPA. These boards have limited jurisdiction and authority, and are not intended to serve as super state land use bodies.[cxxvii]

The Growth Management Hearings Boards have jurisdiction over appeals of comprehensive plans and development regulations, including shoreline master programs and their amendments. The boards do not have jurisdiction over appeals of project permit applications, including site specific rezones.

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Now, more than ever, effective participation in local planning begins with an understanding of the comprehensive plan and the comprehensive planning process. The information in this manual is not legal advice. Its purpose is to help you understand growth management planning (i.e., comprehensive planning as prescribed by the GMA) and facilitate development of local plans and regulations. Any legal questions should be referred to your legal counsel.

G. Integrated Project Review

1. Background

Permitting is a key issue for local governments. A state law passed in 1995, ESHB 1724, restructures the local land use permit process. The goal is to better enable citizens and developers to know what to expect from the local permit process and to provide for more timely and efficient issuance of permits.

By March 31, 1996, all local governments were required, by ordinance or resolution, to:

- Combine environmental review with project permit review.
- Except for the appeal of a determination of significance, allow not more than one open record hearing and not more than one closed record appeal hearing on both the permit and environmental review.[cxxviii]
- An open record hearing creates local government's record through testimony and information that is submitted.
- A closed record appeal is an administrative appeal to a local government body or officer after an open record hearing on a project permit application. No new evidence or only limited new evidence may be submitted.

In addition, local governments fully planning under the GMA are required to adopt development regulations that require the local government to do the following:

- Notify the applicant within 28 days of receiving a project permit application that the application is complete or specify information needed to make it complete.[cxxix]

- Notify the public and other departments and agencies with jurisdiction that an application has been received within 14 days after it is determined the application is complete.[cxxx]

- Issue notice of final decision on a permit application within a time period generally not to exceed 120 days after notifying the applicant that an application is complete.[cxxxi]

- Offer a consolidated permit process to allow applicants to apply for a variety of permits simultaneously with an applicant right to one single open record hearing and one closed record appeal for a development project no matter how many permits are involved.[cxxxii]

2. Local Project Review Act–Integration of Permit and Environmental Review

The Local Project Review Act is part of the Land Use Regulatory Reform Act signed in to law in 1995 (ESHB 1724, codified, in part, in Chapter 36.70B RCW). It requires all counties and cities to combine permit review and environmental review and to consolidate administrative appeals of permit and SEPA decisions. Integrated project review provides a more streamlined permit and environmental review process by reducing duplication and paperwork. This section will explain the requirements for project review under Chapter 36.70B RCW, and how the SEPA requirements are integrated into project review. (For more information on the specifics of the SEPA process, see Chapter 6 of this manual.)

The Legislature recognized that counties and cities fully planning under the GMA must rely on their comprehensive plans and development regulations as the building blocks for land use regulatory reform. Land use planning decisions made during the GMA planning process should not be revisited at the project level. Equally, environmental impacts that were studied as part of the GMA planning process should not be reanalyzed at the project level. GMA planning decisions provide "the means to effectively combine certainty for development decisions, reasonable environmental protection, long-range planning for cost-effective infrastructure, and orderly growth and development."[cxxxiii]

3. Procedural Requirements for Project Review

a. Requirements for All Counties and Cities.

All counties and cities are required to develop an integrated project review process that:[cxxxiv]

- combines both procedural and substantive environmental review with permit review; and

- except for the appeal of a SEPA determination of significance, provides for no more than one open record hearing and one closed record appeal for a

development project, no matter how many local development permit applications are involved.

Chapter 36.70B RCW has no specific requirements for how counties and cities not fully planning under the GMA are to integrate their processes, except for administrative appeals.

b. Requirements for GMA Counties and Cities

Counties and cities fully planning under the GMA have additional requirements that must be adopted by ordinance or resolution. The following steps must be included in their project review process:

- Determination of completeness
- Notice of application
- Notice of decision–generally issued within 120 days of the determination of completeness
- Combined permit and SEPA administrative appeals

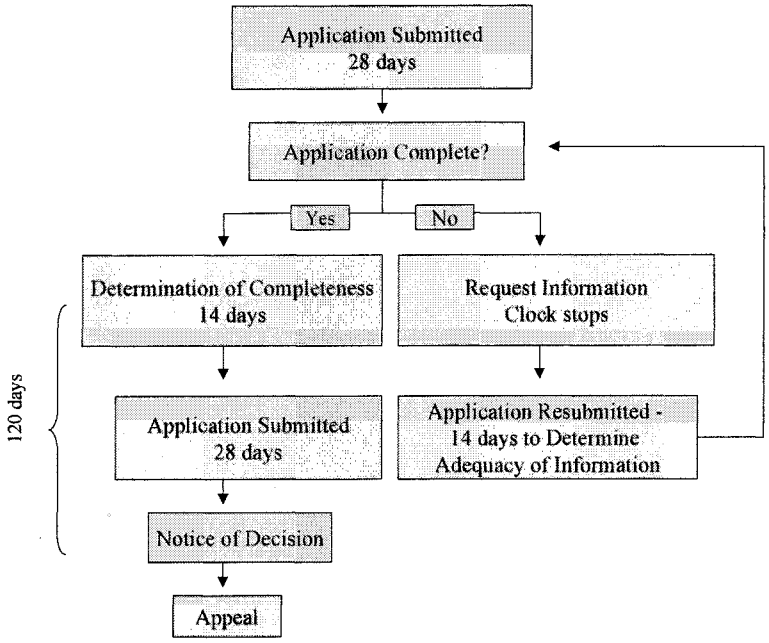
Cities and counties not fully planning under the GMA may choose to follow this process for integrating their permit and environmental review procedures.

A 2004 amendment to RCW 36.70A.080 now requires cities and counties subject to the buildable lands reports of RCW 36.70A.215 to also prepare yearly reports on permit processing times.

c. Steps in the Integrated Project Review Process Required for Counties and Cities Planning Fully under the GMA:

[Please see diagram on next page.]

Overview of the Integrated Project Review Process



i. Submitting a Project Application–Initial Project Review

Project review normally begins when an applicant submits a permit application (usually accompanied by a SEPA environmental checklist). However, project review can begin earlier if a preapplication process is offered or required by the local jurisdiction. Counties and cities are not required to provide a preapplication process, but many choose to do so.

A preapplication process can be beneficial to the applicant and reviewing agencies for complicated proposals. It usually involves a meeting between the applicant, various county or city departments, and other agencies that issue permits. A preapplication meeting allows the applicant to discuss the project and gather information on what studies and mitigation may be required. The county or city will have the opportunity to inform the applicant as to whether the project appears to be consistent with the development regulations and/or comprehensive plan (land use designations, building densities or intensities, and development standards) and any environmental studies or mitigation that may be required.

ii. Determination of Completeness

Counties and cities fully planning under the GMA are required to determine whether an application is complete enough to begin processing within 28 days of submittal.[cxxxv] If the application is determined complete, it is documented in a "determination of completeness" and sent to the applicant.

If the application is not complete, the county or city may request additional information from the applicant. Once this information is submitted, the agency has 14 days to determine whether the application is now complete and to notify the applicant in writing. Even though a county or city

has determined that an application complete is, it is not precluded from later requesting additional information or studies. The county or city may request more information or studies if new information is required or there are substantial changes in the application.

The issuance of the determination of completeness also starts the "120-day clock." Once the determination of completeness is issued, the county or city has 120 days to issue the notice of decision.

The determination of completeness may include the following optional information:

- A preliminary determination of those development regulations that apply to the proposal and will be used for project mitigation;
- A preliminary determination of consistency with applicable development regulations (see "Analyzing Consistency" on page 3-48 below); or
- Other information the local government chooses to include.

SEPA steps at this stage of project review:

Is SEPA review required? If this is the first permit application submitted for a proposal, the county or city will also determine whether the proposal is categorically exempt.[cxxxvi] If the proposal is exempt and SEPA review is not required, the county or city must still follow the steps for integrated project review; determination of completeness, notice of application, and notice of decision.

What if the county or city is not the lead agency? In most instances, the county or city will be the lead agency. However, the county or city will not be the lead agency when a local permit is not required, another agency is the proponent, or another agency is designated under the SEPA Rules as lead for a specific type of proposal.[cxxxvii] If the county or city is not the lead agency, it will still analyze the consistency of the project with applicable development regulations and/or comprehensive plan policies. That information should be provided to the lead agency for notation in the SEPA documents. In this situation, counties and cities will also address consistency issues when they review the permit application.

What if the lead agency is also the project proponent? When there is a public proposal, such as a road project or sewer system, the proponent is often also the lead agency. Public proposals frequently take several years to plan and implement. The public agency proponent usually does its environmental review under SEPA months or years prior to submitting a permit application to the county or city. Thus, it is not possible to conduct environmental review or to combine hearings on procedural SEPA with permit hearings. The Local Project Review Act and SEPA were amended in 1997 to resolve this problem. A public agency that is funding or implementing a proposal may conduct its review and hold procedural appeals under SEPA prior to submitting a permit application.[cxxxviii]

What else should the reviewer be thinking about at this step? Issues that should be considered during initial project review by fully planning counties or cities include the following:

- Is the project description complete? Is the project properly defined? Have all interdependent pieces of the project been identified?[cxxxix]

- Is the project consistent with the development regulations, or in the absence of applicable development regulations, the comprehensive plan? (See the section of this chapter on "Analyzing Consistency" on page 3-48.)

- Are specific studies required under the development regulations and/or SEPA environmental review, or by other local, state, or federal regulations (e.g., a wetland study or transportation study)?

- What are the environmental impacts of the proposal? Have they been addressed by existing environmental documents (an EIS on the comprehensive plan or an EIS on a similar project or similar geographic area)?

- Will mitigation/conditions be required by the development regulations or other local, state, or federal regulations? Are there environmental impacts, which have not been addressed by the regulations?

It may not be possible to answer all of these questions during the initial review phase, but it is important to consider them as early in the process as possible.

iii. Notice of Application

Counties and cities planning fully under the GMA are required to issue a notice of application (NOA) within 14 days after determining the permit application is complete.[cxl]

The notice of application must include the following information:

- The date of application, date of determination of completeness, and date of the notice of application;

- Notice of the public comment period, which must be between 14 and 30 days;

- Notice of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and appeal;

- The date, time, and place of any public hearing (if known);

- A project description, which should include sufficient detail to allow an understanding of what is proposed;

- A list of the project permits included in the application, and any other permits the county or city knows will be needed from other agencies;

- A list of studies that will be requested, if any;

- A list of existing environmental documents that evaluate the proposed project;
- A preliminary determination of the development regulations that apply to and will be used to mitigate the project (if known); and
- A preliminary determination of the project's consistency with the development regulations and/or comprehensive plan (if known).

Counties and cities are required to use reasonable methods to distribute the NOA to the public and other agencies. The county or city may use its existing notice procedures and may use different types of notice for different types of permits. The notice requirements are similar to those required under SEPA and are found in RCW 36.70B.110(4).

Counties and cities must designate a comment period on the notice of application of not less than 14 and not more than 30 days following the date of the notice of application. The county or city may accept public comments at any time prior to the closing of the record of an open record predecision hearing. If the county or city does not provide an open record predecision hearing, public comments may be accepted prior to the final decision on the project permit.

SEPA steps at this stage of project review:

The determination of significance (DS) and the scoping notice are combined with the NOA if a county or city is also lead agency under SEPA and has determined an EIS is needed at the time it issues the notice of application. The county or city may also issue the DS and scoping notice prior to issuing the NOA, or they may wait to consider comments received on the NOA before making a threshold determination.[cxli]

An ambiguity in the law makes it unclear whether a determination of nonsignificance (DNS) can be issued with the NOA.[cxlii] Although Ecology recommends that agencies wait to issue a DNS until after the close of the comment period on the NOA, new legislation may be needed to resolve the conflict. In the meantime, when the county or city is also the SEPA lead agency, they may choose to use the "optional DNS process."[cxliii]

The optional DNS process is available only to counties and cities fully planning under the GMA. As previously discussed, counties and cities may not issue a DNS before the close of the public comment period on an NOA (14 to 30 days) under RCW 36.70B.110(6). Counties and cities are not always required to provide a comment period on a DNS. However, if a comment period is required or provided for a DNS, this restriction results in two separate public comment periods. Under certain circumstances, WAC 197-11-355 allows the use of the comment period for the NOA to obtain comments on the environmental impacts of a project. The NOA will state that it is likely that the county or city will be issuing a DNS. The agency then takes comments and decides whether to issue the DNS subsequent to the close of the comment period on the NOA. When the DNS is formally issued, no additional comment period will be required. (For more information, see the Department of Ecology's *SEPA Handbook.*)

iv. Notice of Final Decision

Once the public comment period on the notice of application ends, the agency will review the comments and complete the project review process, including environmental analysis. At the end of the review, fully planning communities are required to issue a notice of final decision.[cxliv] The county or city may include permit conditions on the development based on the development regulations or on the jurisdiction's SEPA substantive authority.

A county or city must complete project review and issue the notice of decision within 120 days after the determination of completeness.[cxlv] The 120 days are calculated by counting calendar days. However, most local ordinances exclude certain periods of time, based upon state legislation that has since been repealed. These local ordinances typically provide that the 120-day clock stops when the city or county:

- Requires the applicant to correct plans, perform required studies, or provide additional required information;
- Requires the preparation of an environmental impact statement;
- Provides for any period for administrative appeals; or
- Agrees with the applicant to any extension of time.

The time limits only apply to project permit applications, which are essentially development permit applications excluding legislative actions such as amending comprehensive plans, adopting area-wide rezones or amending or adopting development regulations.[cxlvi]

v. Analytical Requirements for Project Review: Consistency and Environmental Impacts

The Local Project Review Act encourages counties and cities planning fully under the GMA to rely on applicable development regulations and/or comprehensive plan policies to analyze and address environmental impacts. Environmental analysis and mitigation required under SEPA should not duplicate other local, state, and federal requirements. Environmental review of projects should focus on environmental impacts and possible mitigation measures not previously addressed in the planning process or in local, state, and federal laws and regulations. Fully planning counties and cities should only require studies or use their SEPA substantive authority to condition a project's impacts when existing laws cannot adequately address the impacts.

The Legislature intended that proposed projects continue to receive environmental review, but the review would be integrated with and not be duplicative of other local, state and federal requirements.

- Project review should not reconsider planning decisions already made. In the past, review of proposed projects had been used to reopen land use planning decisions made through the comprehensive planning process. Since extensive work has been done on comprehensive plans and development regulations, the decisions made in the plans and regulations should be the starting point for project review.

- Fully planning counties and cities often incorporate considerable environmental analysis and mitigation measures during the development of comprehensive plans and development regulations. Project review should focus on environmental impacts and mitigation measures not previously addressed in the plan and regulations. This analysis should be used as the starting point for project review.

d. Analyzing Consistency

The Local Project Review Act requires counties and cities fully planning under the GMA to analyze the consistency of a proposed project with the applicable development regulations or, in the absence of applicable regulations, the adopted comprehensive plan. Conducting a consistency analysis and making a determination of whether environmental impacts have been addressed under SEPA involves asking many of the same questions and, thus, referring to many of the same studies and analyses.[cxlvii] For example, both SEPA and a critical areas ordinance could require an analysis of a development's impacts to a wetland's ability to provide stormwater detention and retention functions.

All local jurisdictions routinely review projects for consistency with applicable regulations. However, RCW 36.70B.040 requires that, at a minimum, counties and cities fully planning under the GMA must consider four factors found in their development regulations, or in the absence of applicable development regulations, the comprehensive plan:

- The type of land use allowed, such as the land use designation;
- The level of development allowed, such as units per acre or other measures of density;
- Infrastructure, such as the adequacy of public facilities and services to serve the proposed project; and
- The characteristics of the proposed development as measured by the degree to which the project conforms to specific development regulations or standards.

This uniform approach is based on existing project review practices and should not place an additional burden on applicants or local government. Consistency analysis is largely a matter of code checking for most projects, which are simple or routine. More complex projects may require more analysis of these factors, including any required studies. (see CTED's Consistency Rules for more information on consistency criteria and analysis: http://www.cted.wa.gov/_cted/documents/ID_1042_Publications.pdf.)

Project review focuses on the project's compliance with the development regulations (e.g. critical area ordinances, building codes, street development standards). If the project is not consistent with the development regulations and comprehensive plan, the project can be conditioned to make it consistent, or it can be denied.[cxlviii]

Certain aspects of the four factors of consistency that have been determined in the comprehensive plan and development regulations cannot be reconsidered at the project level. More specifically, if the project is found to be consistent with the type of land use, the density of residential development in urban growth areas, and the availability and adequacy of public facilities, the county or city cannot reexamine alternatives to or hear appeals in these decisions.[cxlix] This limitation also applies to any subsequent reviewing body, such as the court. Once these planning decisions have been made, they cannot be reconsidered during project review. They can only be reconsidered in an amendment to the comprehensive plan and/or development regulations.

However, there are other factors that cannot be reconsidered during project review, which are more narrowly defined than the four factors listed above. These factors do not include level of development measures other than residential density within the urban growth area. For example, residential densities outside the urban growth area or commercial building intensity are not included. The characteristics of development are also not included. This implies that residential densities outside the urban growth area could be revisited at the project level.

Chapter 36.70B RCW does not dictate an agency's procedures for considering consistency, require documentation of consistency, or limit an agency from asking more specific or related questions about the four categories of consistency.[cl] However, agencies are strongly encouraged to begin analyzing a project for consistency early in the project review process and to document such analysis, as they deem appropriate. Documentation provides support for the final permit decision issued by the county or city.

e. Analyzing the Environmental Impacts of a Project: Relying on Laws and Regulations to Address Environmental Impacts

The same law that created the Local Project Review Act added a new section to SEPA to emphasize that a county or city should rely on other applicable laws before requiring more studies under SEPA or invoking its SEPA substantive authority. This section allows a county or city fully planning under the GMA to determine that some or all of a project's environmental impacts have been "adequately addressed" by its development regulations, comprehensive plan, or other local, state, or federal laws or rules.[cli]

The primary role of SEPA in GMA project review is to focus on those environmental impacts that have not been addressed by the county's or city's development regulations and/or comprehensive plan, or other local, state, and federal laws and regulations. SEPA substantive authority should only be used when existing laws cannot adequately address a project's environmental impacts.

During project review, a county or city may determine that some or all of the environmental impacts of the project have been "adequately addressed" in the course of environmental review and making a threshold determination.[clii]

"Adequately addressed" is defined as having identified the impacts and avoided, otherwise mitigated, or designated as acceptable the impacts associated with certain levels of service, land

use designations, development standards, or other land use planning decisions required or allowed under the GMA.[cliii] Examples include:[cliv]

- *"Avoided the impacts":* A county adopts a critical areas ordinance that prohibits filling or building within 250 feet of a certain class of wetlands. SEPA substantive authority would not be needed to address any impacts of filling or building within 250 feet of the wetland as the direct impacts have been avoided by prohibiting the activity.

- *"Otherwise mitigated":* A city identifies a sole source aquifer that is their primary source of potable water. To mitigate the impacts of dense development on recharge of the aquifer, the city minimizes the amount of impervious surface over the aquifer by designating a lower density of residential development and limiting the width of residential streets. When a subdivision is proposed that is consistent with the designated low density and narrow streets, the city can determine that the project's impacts on the aquifer's ability to recharge have been addressed with respect to building density.

- *"Designated as acceptable the impacts associated with certain levels of service":* The GMA requires that counties and cities set levels of service for their transportation systems. Inside the urban growth area, a county decides that it will accept a certain level of traffic congestion (level of service standard) in the transportation element of its comprehensive plan. When an application for a grocery store is submitted, the county determines that the system-wide transportation impacts of the proposal have been addressed because the amount of traffic generated by the store will not cause the transportation level of service to fall below the standards established in the comprehensive plan. The transportation impacts associated with the established level of service were designated as acceptable in the comprehensive plan pursuant to GMA.

Once a determination has been made that an impact has been adequately addressed, the jurisdiction should not require additional mitigation for that particular impact under its SEPA substantive authority. However, the jurisdiction may find that its development regulations address some, but not all, of a project's impacts. In the grocery store example, the jurisdiction would probably still need to rely on SEPA substantive authority to address transportation site-specific impacts such as safety, on-site traffic circulation, and direct access to the site if the development regulations did not address them and the transportation element only dealt with impacts to the transportation system. SEPA substantive authority may still be used to address those impacts not addressed by other laws and regulations.

In the example described above of project impacts on a wetland, the critical areas ordinance may prohibit filling the wetland, but not address the stormwater run-off impacts of the proposed development's parking lot on the wetland's water quality. SEPA substantive authority could still be used to avoid or mitigate the stormwater impacts.

f. How Consistency Analysis and Analysis of Environmental Impacts Work Together

Integration of permit review and environmental review is intended to eliminate duplicative processes and requirements. Consistency analysis and GMA project review involve many of the same studies and analyses. Thus, through the project review process:

- If the applicable regulations require studies that adequately analyze all of the project's specific probable adverse environmental impacts, additional studies under SEPA will not be necessary on those impacts;

- If the applicable regulations require measures that adequately address such environmental impacts, additional measures would likewise not be required under SEPA; and

- If the applicable regulations do not adequately analyze or address a proposal's specific probable adverse environmental impacts, SEPA provides the authority and procedures for additional review.[clv]

For example, a proposed project has a wetland on site. The city critical areas ordinance would require that a wetlands study be done for the project so the city would not need to use its SEPA authority to require one. Based upon the study, the city determines that stormwater runoff from the development will impact the wetland. However, the critical areas or stormwater ordinance addresses the stormwater impacts by requiring that the developer reduce the amount of impervious surface and create a swale to filter runoff going into the wetland. Again SEPA substantive authority would not be used to address this impact. The city would only need to use its SEPA authority if there were other impacts to the wetland that were not addressed by the critical areas ordinance (or other laws). In complying with the requirements of the critical areas ordinance (project consistency), some or all of the project's impacts to the wetland may be determined to have been addressed by the development regulations.

g. Where and How Early Environmental Review Can Result in Reductions in Project Review

All of the examples described in the previous section illustrate how good environmental analysis in the GMA planning process can streamline project review. If anticipated impacts of projects can be analyzed and addressed early in the planning process, SEPA substantive authority will not be needed to address those impacts. Since land use planning is an iterative process, the impacts may be addressed on a regional basis in the county-wide planning policies, on a county or city basis in the comprehensive plan, or on a neighborhood basis in a subarea plan. SEPA need only be used to fill gaps in requirements for studies and mitigation requirements not previously addressed in the planning process.

Good environmental analysis in plans and regulations will streamline later project review, but it will not eliminate the need for environmental review at the project level. Environmental review under SEPA at the plan and regulation level should focus on system-wide cumulative impacts. Counties and cities must seek a balance in their plans and regulations between trying to address

system-wide cumulative impacts and site-specific impacts. Some site-specific impacts can still only be addressed through SEPA at the project level. SEPA is the safety net for those impacts that cannot be easily anticipated in plans and regulations. SEPA also provides the flexibility to address those site-specific impacts that are better dealt with on a project-by-project basis.

h. Docketing Deficiencies in the Comprehensive Plan and Development Regulations for Future Amendments

During project review, a county or city may identify a deficiency in the applicable development regulations or, in the absence of applicable regulations, policies in the comprehensive plan. For example, the reviewer may note that there is not enough information in the regulations or plan to determine whether the project is consistent. The project proponent should not be penalized for this deficiency by delaying project review. Project review may continue under SEPA and other applicable laws, but the identified deficiency must be docketed for possible future development regulation or plan amendments.[clvi]

A deficiency in a development regulation or comprehensive plan refers to the absence of required or potentially desirable contents of a comprehensive plan or development regulation. A reviewer may note during project review that a specific GMA requirement has not been adequately addressed in the plan or regulations. They might also note based upon review of several projects that a certain policy or development standard may be desirable to address a recurring issue. A deficiency does not refer to whether a development regulation adequately addresses a project's probable specific adverse environmental impacts, which the permitting agency could mitigate in the normal project review process.

Docketing is intended to allow and encourage counties and cities to improve their plans and regulations as a result of experience in reviewing projects, but without stopping review of the project that may have disclosed the deficiency.

4. New Ways of Doing Business at the Local Level

Public Hearings:

Some local governments have held a public hearing on a proposed project before the planning commission and another public hearing before the council or commission. Now cities and counties must decide which body will hold the single open record hearing, or whether a hearing examiner will hold it.

Under the GMA and Local Project Review Act (Chapter 36.70B RCW), project review for a new development starts with the decisions a local government has already made in its comprehensive plan and development regulations. Certain issues need consistency discussion and cannot be reexamined during the permit or appeals processes for a project.[clvii]

Consolidated Permits:

The land use applicant may choose to get multiple permits processed at the same time.[clviii] For example, if a conditional use permit for a project is required, it could be processed concurrently

with another permit application. (Conditional uses are proposed projects that require special approval to be allowed in a zone. For example, a school may need a conditional use permit to locate in a residential zone.)

Critical Area Protection Clarified:

Critical areas as defined by the GMA include wetlands, geologically hazardous areas, fish and wildlife habitat conservation areas, aquifer recharge areas, and frequently flooded areas.

- *In designating and protecting critical areas, all counties and cities are required to include best available science in developing policies and development regulations.*[clix]

- *Growth management hearing boards may use scientific experts to assist in reviewing a petition that involves critical areas.*[clx]

5. Key Issues

Early Assessment of Project Impacts:

Limiting the number of hearings and requiring a final decision within 120 days means that early assessment of project impacts is more important than ever.

Preapplication meetings are encouraged under the land use reform law. This gives the applicant, staff, and affected parties an opportunity to share information and resolve issues early in the process.

Costs:

Currently, applicants often pay for environmental review costs connected with development activity. Local governments will bear the initial costs of detailed environmental review when it is done at the comprehensive planning level, as is encouraged by this law. The advantage is that environmental issues and infrastructure impacts are identified up-front, so they can be dealt with more easily as permits are issued. This way developers and the public will know what to expect when further projects are approved for an area. The disadvantage is that local governments often do not have the resources to pay for detailed environmental review.

H. Where To Go For Further Information

Further technical resources and publications are available from the Washington State Department of Community, Trade and Economic Development (CTED). These are listed in Appendix 1, or contact:

Department of Community, Trade and Economic Development
Growth Management Services Program
906 Columbia Street S.W., 3rd Floor
P.O. Box 42525
Olympia, Washington 98504-2525
360-725-3000
www.cted.wa.gov

In addition, local planners may contact the Washington State Bar Association's Environmental and Land Use Law Section to obtain copies of materials from its midyear meetings:

Washington State Bar Association
Environmental and Land Use Law Section
500 Westin Building
2001 Sixth Avenue
Seattle, Washington 98121-2599
206-727-8200

ENDNOTES

[i] Chapter 36.70A RCW.

[ii] Chapter 43.21C RCW.

[iii] Chapter 90.58 RCW.

[iv] Letter to Governor Gardner from Dick Ford at the beginning of Growth Strategies report and p. 9 of the report.

[v] Initiative 547, 1990.

[vi] Washington Laws, 1991, 1st Ex. Sess., Chapter 32 (S.H.B. 1025), amending Chapter 36.70A RCW and others.

[vii] Chapter 365-190 WAC.

[viii] Chapter 365-195 WAC. Best available science guidelines are located at 365-195-900-25.

[ix] Washington Laws, 1997, Chapter 429 (S.B. 6094).

[x] RCW 36.70A.035 established public participation requirements that include notice procedures that are reasonably calculated to provide notice to property owners and other affected and interested individuals, tribes, government agencies, businesses, and organizations of proposed amendments to comprehensive plans and development regulations.

[xi] RCW 36.70A.020.

[xii] Id.; 36.70A.480.

[xiii] RCW 36.70A.280(1) provides that the Growth Management Hearing Boards have jurisdiction to consider whether state agency, city or county planning is in compliance with the requirements of the GMA.

[xiv] RCW 36.70A.3201.

[xv] Honesty in Environmental Analysis v. Central Puget Sound Growth Management Hearings Board, 96 Wn. App. 522, 532, 979 P.2d 864 (1999).

[xvi] RCW 36.70A.040.

[xvii] One exception would be policies and regulations that have already been subject to review by the Growth Management Hearings Board or a court of law. If circumstances have not changed since the last review, it is unlikely that a court or the Hearings Board would allow a second review of the same issues.

[xviii] RCW 36.70A.170(1) (emphasis added).

[xix] RCW 36.70A.030(9) and (20).

[xx] WAC 365-190-030.

[xxi] WAC 265-190-040(1).

[xxii] Department of Ecology, Model Wetlands Protection Ordinance, September 1990; Department of Wildlife, Non-Game Data, Priority Habitats & Species, 1991.

[xxiii] RCW 36.70A.172(1).

[xxiv] WAC 365-190-080(1).

[xxv] WAC 365-190-060.

[xxvi] WAC 365-190-080(1).

[xxvii] WAC 365-190-080(1).

[xxviii] RCW 36.70A.060(2).

[xxix] Bremerton v. Kitsap County, CPSGMHB No. 95-3-0039, pp. 31-32 (1995).

[xxx] "A Growth Strategy for Washington," September 1990, by the Growth Strategy Commission.

[xxxi] Chapter 90.48 RCW.

[xxxii] Chapter 43.21C RCW.

[xxxiii] SAVE v. Bothell, 89 Wn.2d 862, 576 P.2d 401 (1978).

[xxxiv] RCW 36.70A.110(2).

[xxxv] RCW 43.62.035.

[xxxvi] WAC 365-195-335. See also Assoc. of Rural Residents v. Kitsap County, CPSGMHB, Case No. 93-3-0010 (1993). When allocating population to cities, the Central Board has held that a city may plan for more than the minimum county population allocation, as long as it can provide the necessary capital facilities and services, and as long as a specific policy in the Countywide Planning Policies does not prohibit it, but it cannot plan for less. Aagaard, et al. v. City of Bothell, CPSGMHB, Case No. 9-3-0011 (1995); West Seattle Defense Fund v. City of Seattle, CPSGMHB, Case No. 94-3-0016 (1995); Benaroya, et al. v. City of Redmond, CPSGMHB, Case No. 95-3-0072 (1996).

[xxxvii] RCW 36.70A.130(1).

[xxxviii] Now codified as RCW 36.70A.210.

[xxxix] RCW 36.70A.110.

[xl] But cf Postema v. Snohomish County, 83 Wn. App. 574, 922 P.2d 176 (1996), rev. denied, 131 Wn.2d 1019 (1997) (statute requiring county's legislative authority to adopt county-wide planning policy in cooperation with cities located therein did not create a regional government that violated the principle of one person, one vote).

[xli] City of Poulsbo, et al. v. Kitsap County, CPSGMHB, Case No. 92-3-0009, p. 124 (Code Publishing, ed. Sept. 1993).

[xlii] RCW 36.70A.110(1).

[xliii] RCW 36.70A.110(3); but RCW 36.70A.360 permits master planned resorts outside of urban growth areas to make use of capital facilities, utilities and services provided by outside service providers, including municipalities, provided that all costs associated with service extensions are borne by the resort.

[xliv] RCW 36.70A.110(2).

[xlv] For more information, see the CTED publications Issues in Designating Urban Growth Areas: Part I, Providing Adequate Urban Land Area Supply (1992); The Art and Science of Designating Urban Growth Areas: Part II, Some Suggestions for Criteria and Densities (1992); and Buildable Lands Program Guidelines.

[xlvi] RCW 36.70A.130(3).

[xlvii] For a more in-depth discussion of transportation planning, see Chapter 9.

[xlviii] In 1996, the legislature added general aviation airports to the list of items that all local governments must include in their transportation elements of their comprehensive plans. RCW 36.70A.070(6); 36.70A.510; 36.70.547.

[xlix] RCW 47.80.010.

[l] Id.

[li] RCW 47.80.020.

[lii] RCW 47.80.030(1)(a).

[liii] RCW 47.80.023; 47.80.026; 47.80.030.

[liv] RCW 47.80.030(1)(b).

[lv] RCW 47.80.030(2).

[lvi] RCW 36.81.121; 35.77.010; 35.58.2795.

[lvii] RCW 47.80.030.

[lviii] Washington Laws, 1990, 1st Ex. Sess., Chapter 17, § 18 (S.H.B. 2929), veto message, April 24, 1990.

[lix] Anderson v. Issaquah, 70 Wn. App. 64, 851 P.2d 744 (1993); Indian Trail Property Owner's Association v. City of Spokane, 76 Wn. App. 430, 437, 886 P.2d 209 (1994).

[lx] RCW 36.70A.013.

[lxi] RCW 36.70A.200

[lxii] RCW 36.70A.200(1).

[lxiii] Edmonds School Dist. v. Mountlake Terrace, 77 Wn.2d 609, 465 P.2d 177 (1970).

[lxiv] Everett v. Snohomish County, 112 Wn.2d 433, 722 P.2d 992 (1989), Edmonds, supra.

[lxv] South Hill Sewer District v. Pierce County, 22 Wn. App. 738, 591 P.2d 877 (1979), but see Everett, supra; Edmonds, supra.

[lxvi] Everett, supra.

[lxvii] Department of Corrections v. Kennewick, 86 Wn. App. 521, 937 P.2d 732 (1997).

[lxviii] Id. at 533.

[lxix] Port of Seattle v. City of Des Moines, CPSGMHB No. 97-3-0014 (1997).

[lxx] See, DSHS and DOC v. Tacoma, CPSGMHB Case No. 00-3-007, Finding of Compliance (May 22, 2001), at 6.

[lxxi] Id.

[lxxii] RCW 36.70A.200; WAC 365-195-070(4).

[lxxiii] WAC 365-195-340.

[lxxiv] See RCW 71.09.020.

[lxxv] Chapter 36.115 RCW.

[lxxvi] Revenues that can be transferred are the motor vehicle licensing fee (Chapter 46.68 RCW), the liquor tax and profits (Chapter 66.08 RCW), the sales and use tax (Chapter 82.14 RCW), and the motor vehicle excise tax (Chapter 82.44 RCW).

[lxxvii] Shelton v. Bellevue, 73 Wn.2d 28, 435 P.2d 949 (1968).

[lxxviii] RCW 36.70A.070.

[lxxix] RCW 36.70A.090(1).

[lxxx] Washington Laws, 1984, Chapter 253, pp. 1938-41, amending RCW 35.63.090, 35A.63.061 and 36.70.330.

[lxxxi] Washington Laws, 1985, Chapter 126, pp. 533-35, amending RCW 35.63.090, 35A.63.061 and 36.70.330 (emphasis added).

[lxxxii] RCW 36.70A.070(2).

[lxxxiii] RCW 36.70A.070(a)(1)(c).

[lxxxiv] RCW 70.128.140.

[lxxxv] RCW 70.128.010.

[lxxxvi] Chapter 43.185B RCW.

[lxxxvii] RCW 35.63.210; 35A.63.230; 36.70.677; 36.70A.400.

[lxxxviii] RCW 43.63A.215.

[lxxxix] RCW 35.63.220; 35A.63.240; 36.70.990; 36.70A.410.

[xc] CTED, Group Homes in Washington State: Questions and Answers, 1998.

[xci] RCW 35.63.160; 35A.21.312; 36.01.225; 35.21.684.

[xcii] RCW 36.70A.070(3).

[xciii] See Lake Tahoe v. Tahoe Regional Planning Agency, 122 S. Ct. 1465 (2002) (development moratorium can serve as a takings without just compensation).

[xciv] RCW 36.70A.070(4).

[xcv] RCW 36.70A.070(5).

[xcvi] Washington Laws, 1997, Chapter 429 (S.B. 6094), amending various sections of Chapter 36.70A RCW.

[xcvii] RCW 36.70A.070(5)(c).

[xcviii] RCW 36.70A.070(5)(d).

[xcix] RCW 36.70A.070(6).

[c] RCW 36.70A.215.

[ci] RCW 36.70A.140.

[cii] RCW 36.70A.150.

[ciii] RCW 36.70A.160.

[civ] Citizens for Mount Vernon v. City of Mount Vernon, 133 Wn.2d 861, 947 P.2d 1208 (1997).

[cv] RCW 36.70A.040(4).

[cvi] RCW 36.70A.030(7).

[cvii] RCW 35.63.125, RCW 35A.63.105, RCW 36.70A.040(3).

[cviii] RCW 36.70A.040(4).

[cix] RCW 36.70A.120 as amended 1993 (emphasis added).

[cx] RCW 36.70A.040(3).

[cxi] RCW 36.70A.480.

[cxii] RCW 36.70A.070(6)(b).

[cxiii] RCW 36.70A.106. However, it should be noted that regulations adopted as part of the Shoreline Master Program are still subject to approval by the Department of Ecology.

[cxiv] Anderson, supra.

[cxv] RCW 36.70A.070(3)(e).

[cxvi] RCW 36.70A.070(6)(b).

[cxvii] Lake Tahoe, supra.

[cxviii] RCW 36.70A.020(12).

[cxix] RCW 36.70A.030(12).

[cxx] RCW 36.70A.030(13).

[cxxi] See also RCW 19.27.097, 58.17.110.

[cxxii] "Probable funding" falls short of meeting existing needs and to ensure that the land use element, the capital facilities plan element, and the financing plan are coordinated and consistent. RCW 36.70A.070(3).

[cxxiii] RCW 36.70A.070(6)(a)(iv)(C).

[cxxiv] RCW 58.17.110(2).

[cxxv] RCW 36.70A.260 through RCW 36.70A.330.

[cxxvi] RCW 36.70A.280. Washington Laws, 1997, Chapter 429 (S.B. 6094) expanded or modified a number of Board procedures. A board may certify a case directly to superior court for review if all parties to the case agree in writing to direct review to superior court (RCW 36.70A.295). A board may now extend the 180-day period for issuing a decision to enable parties to settle if additional time is necessary to achieve a settlement (RCW 36.70A.300(2)(b)). The Board may extend the compliance period in cases of unusual scope or complexity (RCW 36.70A.300(3)(b)). Boards may not issue advisory opinions (RCW 36.70A.290(1)).

[cxxvii] Pursuant to RCW 36.70A.3201, boards are to apply a more deferential standard of review to actions of counties and cities than the preponderance of evidence standard. A board may determine that all or part of a comprehensive plan or development regulation is invalid (RCW 36.70A.302)). Amendments made to the GMA by Washington Laws, 1997, Chapter 429 (S.B. 6094) allows a local government to adopt interim measures pending adoption of a comprehensive plan. Washington Laws, 1997, Chapter 429 (S.B. 6094) also changed the standard for lifting an order of invalidity to require only that the local government no longer be substantially interfering with the GMA.

[cxxviii] RCW 36.70B.050.

[cxxix] RCW 36.70B.070(1).

[cxxx] RCW 36.70B.110(2).

[cxxxi] RCW 36.70B.080(1).

[cxxxii] RCW 36.70B.120.

[cxxxiii] RCW 36.70A.470.

[cxxxiv] RCW 36.70B.050.

[cxxxv] RCW 36.70B.070.

[cxxxvi] WAC 197-11-305.

[cxxxvii] WAC 197-11-938.

[cxxxviii] RCW 36.70B.110(1) and to SEPA 43.21C.075(3)(b)(iii).

[cxxxix] WAC 197-11-060(3).

[cxl] RCW 36.70B.110.

[cxli] RCW 36.70B.110(1).

[cxlii] The 1997 Legislature passed two bills amending RCW 36.70B.110 in relation to the timing of the threshold determination and the notice of application:

- Washington Laws, 1997, Chapter 396 (S.S.B. 5462) allows the threshold determination to be issued with the notice of application with a combined comment period.

- Washington Laws, 1997, Chapter 429 (S.B. 6094) amended the same section, but still prohibits a determination of nonsignificance from being issued prior to the close of the comment period on the notice of application.

[cxliii] WAC 197-11-355.

[cxliv] RCW 36.70B.130.

[cxlv] RCW 36.70B.080(1).

[cxlvi] RCW 36.70B.020(4).

[cxlvii] RCW 36.70B.030 and 040, and RCW 43.21C.240.

[cxlviii] RCW 36.70B.030 and 040.

[cxlix] RCW 36.70B.030(3) and 36.70B.040(2).

[cl] RCW 36.70B.040(4).

[cli] RCW 43.21C.240 and WAC 197-11-158.

[clii] WAC 197-11-158(1).

[cliii] RCW 43.21C.240(4).

[cliv] These examples are greatly simplified and are intended to be illustrative only and should not be applied to a more specific project application. The facts of an individual application and the applicable regulations will govern the outcome of any determination by the county or city.

[clv] Note to RCW 43.21C.240.

[clvi] RCW 36.70A.470.

[clvii] RCW 43.21C.240 and WAC 197-11-158.

[clviii] RCW 36.70B.120.

[clix] RCW 36.70A.172(1).

[clx] RCW 36.70A.172(2).

Growth Management Services – Publications List by Topic – August 10, 2006

Telephone: 360-725-3000, Fax: 360-753-2950, E-mail: cynthiar@cted.wa.gov
Note: Some documents are available by hardcopy only. Request copies by e-mail, fax, or telephone to Growth Management Services. You may also access this list on the Internet at: www.cted.wa.gov/growth.

Agriculture	About Growth – Spring 2002
	Agricultural Lands Study, Designations of Agriculture Lands in Chelan, King, Lewis, and Yakima Counties, December 2004
	Agriculture in Jefferson County, Summer 2004 -Good example of agriculture uses
Airports	About Growth – Fall 1998
Annexation	Annexation Study: Annexations Under the GMA: Barriers & Potential Solutions, December 2004
	Annexation Study: Annexations Under the GMA: Barriers & Potential Solutions (Appendices A – J), December 2004
Annual Reports	Annual Report – FY 2001
	Annual Report – FY 2002
	Annual Report – Two-Year Progress Report FY 2003-2004
	Annual Report – FY 2005
Benchmarks (See Monitoring)	
Best Available Science (see also Critical Areas)	Citations of Recommended Sources of Best Available Science, 2002
	Growth Management Act – Procedural Criteria for Adopting Comprehensive Plans and Development Regulations, 2003
Bicycling, Planning for	Planning for Bicycling and Walking, 2005 Amendments to the GMA
Buildable Lands	Buildable Lands Program Guidelines, 2000
	Buildable Lands Program: 2002 Evaluation Report – A Summary of Findings, 2003
	Fact Sheet – Do We Have Enough Residential, Commercial, and Industrial Land for Future Growth? 2003
Capital Facilities	About Growth – Spring 1995
	About Growth – Winter 2004-05
	Making Your Comprehensive Plan a Reality: A Guide to a Capital Facilities Plan, 1993
	Fact Sheet – Capital facilities planning is essential for economic vitality and quality of life, 2003
	Fact Sheet – Capital facilities planning template project, 2003
	About Growth – Summer 1999
Citizen Participation	Bottom Up Primer: A Guide to Citizen Participation, 1991
	Towards Managing Growth: A Guide to Community Visioning, 1991
	Q&A – Citizen Participation, 2003
	About Growth – Summer-Fall 2003
	About Growth – Fall 2005
Clearing and Grading	Clearing and Grading in Western Washington Technical Document, June 2005
Coastal Erosion	The Coastal Erosion Task Force, 1999
Comprehensive Plans	About Growth – Spring 1996
	What is a Comprehensive Plan?
	Comprehensive Plan Checklist, 2005
Critical Areas	Critical Areas Assistance Handbook: Protecting Critical Areas Within the Framework of the Washington Growth Management Act, 2003

	CD-ROM Version zip file – need to double click on index.htm when user unzips/extracts files (automatically downloads to your PC) Note: CD can be ordered from GMS and mailed directly to you.
	Critical Areas Assistance Handbook: Protecting Critical Areas Within the Framework of the Washington Growth Management Act, 2003 Note: Links to view the Handbook sections electronically.
	Fact Sheet – GMA comprehensive plans, development regulations crucial to state's salmon recovery efforts, 2005
	Fact Sheet – How critical areas regulations can help ensure protection of salmon habitat, 2003 ESA Critical Area Listings
	About Growth – Fall 2004
	About Growth – Winter 2001-2002
Design Review	About Growth – Spring 2001
Development Regulations	Development Regulations Adoption Schedule and Checklist, 2005
	About Growth – Winter 2002-2003
Dispute Resolution	About Growth – Summer 2004
Downtowns	About Growth – Fall 1997
Economic Development	Economic Development through Growth Management: Making the Vision Real, 1993
	Fact Sheet – Growth Management – The Economic Development Element, 2003
	About Growth – Summer 2002
	About Growth – Spring 1998
Environmental Protection	About Growth – Winter 2000-2001
ESHB 1724	ESHB 1724 – Making Land Use Work in Your Community (Brochure), 1996
Fish and Wildlife Habitat	About Growth – Summer 1998
	About Growth – Summer 1995
GMA	Growth Management Act (Brochure), 2005
	Growth Management Act Amendments – 1995-2005
	Growth Management Act and Related Laws, August 2004
	Fact Sheet – Counties, cities completing GMA requirements to manage Washington's forecasted growth, 2003
	Fact Sheet – Overview of the Growth Management Act, 2003
	GMA 101: Planning Under the Growth Management Act
	Growth Management Questions and Answers
Governor's Smart Communities Awards Program Brochure	June 7, 2006 Governor's Smart Communities Awards Program
Growth Management 15-Year Report	Creating Livable Communities, Managing Washington's Growth for 15 Years, Report, June 2006
Growth Management 15-Year - An Overview, Brochure	Creating Livable Communities, Managing Washington's Growth for 15 years, An Overview, Brochure, June 2006
Growth Management Hearings Boards	About Growth – Summer 1996
	GMHB Permanent Rules (Chapter 242-02 WAC), 2000
Growth Management Services	Fact Sheet – Helping Washington communities manage growth and protect important resources, 2003
Historic Preservation	Historic Preservation: A Tool for Managing Growth, 2005
	About Growth – Fall 2001
	About Growth – Spring 2001
Housing	Accessory Dwelling Unit Ordinance Study and Recommendations, 1994

	Assessing Your Communities Housing Needs: A Guide to Doing a Housing Needs Assessment, 1992
	Housing Your Community: A Housing Element Guide, 1993
	Fact Sheet – Communities wrestle with how to provide affordable housing for all income levels, 2003
Housing, Affordable Housing	About Growth – Spring-Summer 2006
	About Growth – Winter 2003-2004
	About Growth – Spring 2001
	About Growth – Winter 1997-98
Impact Fees	Paying for Growth's Impacts: A Guide to Impact Fees, 1992
Infill development	About Growth – Winter 2003-2004
Interagency Contacts	GMA Interagency Contacts Directory, 2002
Intergovernmental Coordination	Working Together: A Guide to Intergovernmental Coordination under the Growth Management Act, 1992
	About Growth – Summer-Fall – 2000
Land Use Element	Preparing the Heart of Your Comprehensive Plan: A Land Use Element Guide, 1993
	Preparing Your Comprehensive Plan's Foundation: A Land Use Inventory Guide, 1992
Land Use Study Commission	About Growth – Summer 1997
	About Growth – Fall 1996
Military Installation Compatibility	Fact Sheet, Ensuring land use development and military installation compatibility, RCW 36.70A.530
Minimum Guidelines	Growth Management Act – Procedural Criteria for Adopting Comprehensive Plans and Development Regulations, 2003
Mixed Use	About Growth – Winter 2003-2004
Model Codes	Model Code Provisions: Urban Streets and Subdivisions, 1998
Monitoring	About Growth – Fall 1999
Natural Hazard Reduction	Optional Comprehensive Plan Element for Natural Hazard Reduction, 1999
	About Growth – Spring 2000
Parks, Recreation, and Open Space	Planning for Parks, Recreation, and Open Space in Your Community, 2005
	About Growth – Spring 2005
	About Growth – Fall 2001
Permits	Local Government Project Permitting Study, January 2005
	About Growth – Winter 2000-2001
	About Growth – Winter 1995-96
Planner's Update Bulletin	Issue One: GMA Review and Update, Update Grants Available, Legislature Assigns Studies to CTED, Expedited Review, Urban Residential Density Guidance Paper Completed
Planner's Update Bulletin	Issue Two: GMA Updates, CTED Updating Parks, Economic Development Planning Guidebooks, Three New Studies Completed by CTED, Regional Planners' Forums Schedule
Planner's Update Bulletin	Issue Three: 2005, 2006 GMA Workshops, GMA Update Checklists, 2005 Legislative Changes, CFP Template, Wetlands Update – Best Available Science, Regional Planners' Forums, New Guidebooks Available June 2005
Planner's Update Bulletin	Issue Four:
Planning for Growth	About Growth – Fall 2005
Planning in Small Cities & Towns	About Growth – Winter 2005-06

Population Forecasting	Predicting Growth and Change in Your Communities: A Guide to Subcounty Forecasting, 1993
Procedural Criteria	Growth Management Act – Procedural Criteria for Adopting Comprehensive Plans and Development Regulations, 2003
Project Consistency	Project Consistency (Chapter 365-197 WAC)
Property Rights	Taking Guidance Final, December 2003: Advisory Memorandum: Avoiding Unconstitutional Takings of Private Property, Attorney General Report
RCWs	Growth Management Act and Related Laws, October 2005
Resource Lands	Growth Management Act – Procedural Criteria for Adopting Comprehensive Plans and Development Regulations, 2003
Revenue Sharing	About Growth – Summer-Fall 2000
Rural	Defining Rural Character and Planning for Rural Lands, 1994
	Keeping the Rural Vision: Protecting Rural Character & Planning for Rural Development, 1999
	Fact Sheet – Rural quality of life in rural areas, 2003
	About Growth – Winter 2001-2002
Secure Community Transition Facilities	About Growth – Winter 2001-2002
SEPA/GMA	About Growth – Fall 1995
	SEPA and the Promise of the GMA: Reducing the Costs of Development, 2003
	Fact Sheet – Combining environmental review, planning pays dividends, 2003
Shoreline Management	Shoreline Master Program Guidelines (WAC 173-26), 2004
	Questions and Answers on ESHB 1933, Critical Areas Protection Under the GMA & SMA, 2003 Engrossed Substitute House Bill 1933, Passed Legislature (2003 Regular Session) Integration of Shoreline Management policies with the GMA, 2003
Short Course	Short Course in Local Planning, 1999
	Fact Sheet – Short course demystifies planning process for elected officials, planning commissioners, citizens, 2003
Smart Growth	About Growth – Spring 1999
Success Stories	Growth Management: It's Beginning to Take Shape, 1997, reprinted in 2001
	Achieving Growth Management Goals: Local Success Stories, 2000
	About Growth – Fall 2002
	About Growth – Winter-Spring 1996-97
	About Growth – Winter-Spring 1994-95
Transportation	Your Community's Transportation System: A Transportation Element Guide, 1993
	Fact Sheet – Connecting development with transportation planning, 2003
	Fact Sheet – GMA links transportation and land use, 2003
	About Growth – Winter 1999-2000
	About Growth – Spring 2003
Update, GMA	GMA Update: Issues to Consider When Reviewing Comprehensive Plans and Development Regulations, 2003
	GMA Update: Issues to Consider When Reviewing and Evaluating Critical Areas Regulations and Natural Resource Lands Designations, 2003
	Statutory Deadlines for GMA Related Actions, 2005
	Technical Bulletin 1.1 – Issues to Consider When Reviewing and Evaluating Critical areas Regulations and Natural Resource Lands Designations, 2002
	Technical Bulletin 1.2 – 2002 Update: Issues to Consider when Reviewing Comprehensive Plans and Development Regulations, 2002

	Technical Bulletin 1.3.1 – GMA Updates: Using Population Data, June 2006
	Technical Bulletin 1.4.1 – GMA Updates: Optional Processes for Review and Revision of Comprehensive Plans and Development Regulations under the Growth Management Act, May 24, 2006
	Frequently Asked Questions Regarding GMA Updates
	About Growth – Spring 2004
	About Growth – Winter 2003-2004
	About Growth – Summer 2002
	About Growth – Winter 2001-2002
	About Growth – Summer 2001
Urban	About Growth – Winter 1998-99
	Measures for Providing Attractive, Compact Urban Areas, 2003
	Urban Densities – Central Puget Sound Edition, September 2004
Urban Growth Areas	Art & Science in Designating Urban Growth Areas, Part II: Suggestions for Criteria and Densities, 1992
	Issues in Designating Urban Growth Areas: Part I: Providing Adequate Urban Land Supply, 1992
	Fact Sheet – How much space do Washington's communities need for urban growth?, 2003
	Shaping Your Future: A Guide to Designating Urban Growth Area, 1990
WACs	Growth Management Act – Procedural Criteria for Adopting Comprehensive Plans and Development Regulations, 2003
Water	About Growth – Fall 1994
Watershed Planning	Fact Sheet – The link between growth management, watershed planning, 2003
	About Growth – Summer 2005

Appendix 2
GMA Update Deadlines by County*

On or before December 1, 2004**	On or before December 1, 2005**	On or before December 1, 2006**	On or before December 1, 2007**
Clallam County	Cowlitz County	Benton County	Adams County
Clark County	Island County	Chelan County	Asotin County
Jefferson County	Lewis County	Douglas County	Columbia County
King County	Mason County	Grant County	Ferry County
Kitsap County	San Juan County	Kittitas County	Franklin County
Pierce County	Skagit County	Spokane County	Garfield County
Snohomish County	Skamania County	Yakima County	Grays Harbor County
Thurston County			Klickitat County
Whatcom County			Lincoln County
			Okanogan County
			Pacific County
			Pend Oreille County
			Stevens County
			Wahkiakum County
			Walla Walla County
			Whitman County

*** Same deadline applies to cities within the counties.**
**** And every seven years thereafter.**

For those counties with a deadline in 2005, 2006, or 2007, CAO updates are due one year after the comprehensive plan due dates. (This CAO extension may be changed by bills which are still pending in the 2006 legislative session as we go to press with this edition.)

Thurston County
COUNTY-WIDE PLANNING POLICIES
August 16, 1993

These policies were adopted by the Board of County Commissioners on September 8, 1992. They were ratified earlier by each of the seven cities and towns within Thurston County. Those seven cities and towns are Lacey, Olympia, Tumwater, Bucoda, Rainier, Tenino and Yelm. On August 2, 1993, representatives of Thurston County and the seven cities and towns met to clarify intent of policies 1.2 and 1.3 and to affirm long and short term Urban Growth boundaries established in 1988 around Olympia, Lacey and Tumwater.

Background: The Growth Management Act calls for the faster growing counties and cities within their borders to undertake new planning to prepare for anticipated growth. New parts are to be added to the Comprehensive Plans of these counties and cities, and those plans are to be coordinated and consistent. The framework for this coordination are county-wide planning policies, developed by each county, in collaboration with its cities and towns. These are Thurston County's county-wide planning policies which will be used to frame how the Comprehensive Plans of Thurston County and the seven cities and towns will be developed and coordinated.

TABLE OF CONTENTS

I.
URBAN GROWTH AREAS

June 5, 1992
Adopted September 8, 1992

Note: The North County long and short term boundaries established in 1988 with public hearings and incorporation into the Thurston County Comprehensive Plan, are affirmed as in effect today. (This clarification added 8/2/93).

Urban growth within Thurston County will occur only in designated urban growth areas. To ensure that urban growth areas are established and periodically reviewed, the cities and towns will work with Thurston County to:

1.1 Designate growth area boundaries that meet the following criteria:

a. Contain areas characterized by urban growth,
b. Are served by or are planned to be served by municipal utilities,
c. Contain vacant land near existing urban areas that is capable of supporting urban development,
d. Are compatible with the use of designated resource lands and critical areas,
e. Follow logical boundaries,
f. Consider citizen preferences, and
g. Are of sufficient area and densities to permit the urban growth that is projected to occur in the succeeding twenty-year period.

1.2 Designate and amend urban growth boundaries through the following **process**:

a. Cities and towns will confer with the county about boundary location or amendment,
b. Proposed boundaries are presented to the UGM subcommittee of Thurston Regional Planning Council, which makes a recommendation directly to the Board of County Commissioners,
c. Following a public hearing, the Board of County Commissioners designates the boundaries and justifies its decision in writing,
d. Cities and towns not in agreement with the boundary designation may request mediation through the State Department of Community Development, and
e. At least every 10 years, growth boundaries will be reviewed based on updated 20 year population projections.

Note: Section 1.2 applies to the "long term urban growth boundary" in the North County and "the urban growth boundary" in South County. For amendments to the North County urban growth boundary, the Urban Growth Management Committee of Thurston Regional Planning Council will develop criteria to evaluate long term boundary changes and a process for involving area residents and other jurisdictions, through joint planning or some form of the process. The governing body of each of the North County jurisdictions will review the proposed criteria and process. (This clarification added 8/2/93).

1.3 Short Term Urban Growth Boundaries

The establishment of short term urban growth area boundaries is optional. Any existing short term boundaries and their methods of expansion as established under urban growth management agreements will remain in place until such agreements are re-examined.

Note: Joint planning between Thurston County and the affected city, only, is the method for changing the North County short term boundary. (This clarification added 8/2/93).

II.
PROMOTION OF CONTIGUOUS AND ORDERLY DEVELOPMENT & PROVISION OF URBAN SERVICES

August 19, 1992
Adopted September 8, 1992

In order to accommodate most of the county's population and employment in urban growth areas in ways that ensure livability, preservation of environmental quality, open space retention, varied and affordable housing, high quality urban services at least cost, and orderly transition of land from county to city, Thurston County and each city and town will:

2.1 Concentrate development in growth areas by:

a. Encouraging infilling in areas already characterized by urban growth that have the capacity and provide public services and facilities to serve urban development;
b. Phasing urban development and facilities outward from core areas,
c. Establishing mechanisms to ensure average residential densities sufficient to enable the county as a whole to accommodate its 20-year population projection; *(See process policy on page 10)*
d. Designate rural areas for low intensity, non-urban uses that preserve natural resource lands, protect rural areas from sprawling, low-density development and assure that rural areas may be served with lower cost, non-urban public services and utilities;
e. Where urban services & utilities are not yet available, requiring development to be configured so urban growth areas may eventually infill and become urban.
f. Considering innovative development techniques.

2.2 Coordinate Urban Services, Planning, and Standards through:

a. Coordinated planning and implementation of urban land use, parks, open space corridors, transportation, and infrastructure within growth areas;
b. Identification, in advance of development, of sites for schools, parks, fire and police stations, major stormwater facilities, greenbelts, and open space. Acquisition of sites for these facilities shall occur in a timely manner and as early as possible in the overall development of the area;
c. Compatible development standards & road/street level of service standards among adjoining jurisdictions
d. Development occurring within unincorporated urban growth areas shall conform to the development standards of the associated city or town;
Explanatory comment: This provision recognized that development short of this requirement may cause the larger society to bear the expense of retrofitting the development to meet urban standards (i.e., water, sewer, stormwater, and roadways) upon eventual annexation. This standard will further enable the larger community to structure how growth will occur to minimize the cost of providing the infrastructure for these service systems.
e. Phasing extensions of urban services and facilities concurrent with development; and
f. No extensions of urban services and facilities, such as sewer and water, beyond urban growth boundaries except to serve existing development in rural areas with public health or water quality problems.

2.3 Provide capacity to accommodate planned growth by:

a. Assuring that each jurisdiction will have adequate capacity in transportation, public and private utilities, stormdrainage systems, municipal services, parks and schools to serve growth that is planned for in adopted local comprehensive plans; and
b. Protection of ground water supplies from contamination and maintenance of ground water in adequate supply by identifying and reserving future supplies well in advance of need.

2.4 Cooperate on annexations in order to accomplish an orderly transfer of contiguous lands within growth areas into the adjoining cities and towns.

III.
JOINT COUNTY AND CITY PLANNING WITHIN URBAN GROWTH AREAS

August 19, 1992
Adopted September 8, 1992

Thurston County and the cities and towns within its borders will jointly plan the unincorporated portions of urban growth areas as follows:

3.1 Each city and town will assume lead responsibility for preparing the joint plan for its growth area in consultation with the county and adjoining jurisdictions.

a. The lead city or town and the county will jointly agree to the level and role of county involvement at the outset of the project, including the role of each jurisdiction's planning commission.

b. A scope of work, schedule and budget will be jointly developed and individually adopted by each jurisdiction.

c. The process will ensure participation by area residents and affected entities.

3.2 The jointly adopted plan or zoning will serve as the basis for county planning decisions and as the pre-annexation comprehensive plan for the city to use when annexations are proposed.

3.3 Each joint plan or zoning will include an agreement to honor the plan or zoning for a mutually agreeable period following adoption of the plan or annexation.

3.4 Nothing in these policies shall be interpreted to change any duties and roles of local governmental bodies mandated by state law; for example, statutory requirements that each jurisdiction's planning commission hold hearings and make recommendations on comprehensive plans and zoning ordinances.

Explanatory Comment: Through the joint planning process outlined in these county-wide planning policies, a committee may draft a joint city and county plan and zoning ordinance; and it is possible that there may be no county planning commissioners serving on the drafting committee. However, the County Planning Commission still has the statutory responsibility to hold hearings on the draft plan and zoning ordinance and make recommendations on those documents to the Board of Thurston County Commissioners.

IV.
SITING COUNTY-WIDE AND STATE-WIDE PUBLIC CAPITAL FACILITIES

June 5, 1992
Adopted September 8, 1992

In order to provide a rational and fair process for siting public capital facilities that every community needs, but which have impacts that make them difficult to site, Thurston County and each city and town will:

4.1 Cooperatively establish a process for identifying and siting within their boundaries public capital facilities of a county-wide and state-wide nature which have a potential for impact beyond jurisdictional boundaries. The process will include public involvement at early stages. These are facilities that are typically difficult to site, such as airports, terminal facilities, state educational facilities, state or regional transportation facilities, state and local correctional facilities, solid waste handling facilities, and in-patient facilities including substance abuse facilities, mental health facilities, and group homes.

4.2 Base decisions on siting county-wide and state-wide public capital facilities on the jurisdiction's adopted plans, zoning and environmental regulations, and the following general criteria:

a. County-wide and state-wide public capital facilities shall not have any probable significant adverse impact on lands designated as critical areas or resource lands; and

b. Major public facilities that generate substantial traffic should be sited near major transportation corridors.

V.
ANALYSIS OF FISCAL IMPACT

August 19, 1992
Adopted September 8, 1992

In order to conduct growth management planning that is fiscally realistic and achievable, in recognition of the high costs of providing public services and facilities to meet the needs of existing future population; and in order to provide equity and fairness with respect to who pays those costs, Thurston County and each city and town should

5.1 Develop financing methods for infrastructure which minimize the taxpayer's overall burden and fairly divide costs between existing and new development.

5.2 Cooperatively explore a method to mitigate the fiscal impact on county government of annexation of significant developed commercial and industrial properties.

5.3 Cooperatively explore methods of coordinating financing of infrastructure in urban growth areas.

VI.
ECONOMIC DEVELOPMENT AND EMPLOYMENT

June 5, 1992
Adopted September 8, 1992

City, town and county governments in Thurston County encourage sustainable economic development and support job opportunities and economic diversification that provide economic vitality and ensure protection of water resources and critical areas. In order to attain an economic base that provides an adequate tax base revenue source, enhances the quality of life of community residents, and maintains environmental quality, the cities, towns and county will:

6.1 Provide in their comprehensive plans for an adequate amount of appropriately located land, utilities, and transportation systems to facilitate environmentally sound and economically viable commercial, public sector, and industrial development;

6.2 Support the retention and expansion of existing public sector and commercial development and environmentally sound, economically viable industrial development and resource uses;

6.3 Provide assistance in obtaining funding and/or technical assistance for the expansion or establishment of environmentally sound and economically viable economic development;

6.4 Support recruitment of environmentally sound and economically viable economic development that helps to diversify or strengthen local economies;

6.5 Support workforce training that will facilitate desirable economic development that helps to diversify or strengthen local economies;

6.6 Improve regulatory certainty, consistency, and efficiency;

6.7 Coordinate economic development efforts with other jurisdictions, the prot, the Economic Development Council, chambers of commerce, and other affected groups; and

6.8 Encourage the utilization and development of areas designated for industrial use, consistent with the environmental policies in Section IX.

VII.
AFFORDABLE HOUSING

August 19, 1992
Adopted September 8, 1992

The cities, towns and county will institute measures to encourage the availability of affordable housing for all incomes and needs and ensure that each community includes a fair share of housing for all economic segments of the population by:

7.1 Establishing a process to accomplish a fair share distribution of affordable housing among the jurisdictions.

7.2 Working with the private sector, Housing Authority, neighborhood groups, and other affected citizens to facilitate the development of attractive, quality low and moderate income housing that is compatible with the surrounding neighborhood an located with easy access to public transportation, commercial areas and employment centers.

7.3 Accommodating low and moderate income housing throughout each jurisdiction rather than isolated in certain areas.

7.4 Exploring ways to reduce the costs of housing.

7.5 Examining and modifying current policies that provide barriers to affordable housing.

7.6 Encouraging a range of housing types and costs commensurate with the employment base and income levels of their populations, particularly for low, moderate and fixed income families.

7.7 When possible, provide assistance in obtaining funding and/or technical assistance for the expansion or establishment of low cost affordable housing for low, moderate and fixed income individuals and families.

VIII.
TRANSPORTATION
April 30, 1992
Adopted September 8, 1992

8.1 Encourage efficient multi-modal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans.

a. Local comprehensive plans will consider the relationship between transportation and land use density and development standards.

b. Local comprehensive plans and development standards should provide for local and regional pedestrian and bicycle circulation.

c. Improved transit service will be based on Intercity Transit's plans, the regional transportation plan, and local comprehensive plans.

d. Transportation Demand Management plans and programs required by State law will be implemented as key part of the region's transportation program.

e. Improvements to the regional road network will be consistent with local and regional transportation plans.

f. The regional transportation planning process is the primary forum for setting County-wide transportation policy.

8.2 The transportation element of each jurisdiction's comprehensive plan will be consistent with the land use element of that jurisdiction's comprehensive plan.

8.3 The transportation element of each jurisdiction's comprehensive plan will include level of service standards for all arterials and transit routes and services. Each jurisdiction will coordinate these level of service standards with all adjacent jurisdictions. Transit level of service standards will be consistent with Intercity Transit policies.

8.4 Each jurisdiction's transportation element will include an assessment of the impacts of the transportation plan and land use assumptions on the transportation systems of adjacent jurisdictions.

8.5 As soon as feasible, given existing resources, the transportation elements of comprehensive plans adopted by Thurston County and each city and town in the county will be made consistent with the regional transportation plan adopted by Thurston Regional Planning Council according to the provisions of the Growth Management Act.

8.6 The regional transportation plan adopted by Thurston Regional Planning Council will be made consistent with the land use elements of comprehensive plans adopted by Thurston County and the cities

and towns within Thurston County and with state transportation plans as soon as feasible after those plans are adopted or updates under the provisions of the Growth Management Act. At a minimum, the regional transportation plan will be reviewed and updated, if necessary, every tow years for consistency with the most recent local comprehensive plans and state transportation plans.

8.7 All transportation projects within Thurston County that have an impact upon facilities or services identified as regional in the regional transportation plan will be consistent with the regional transportation plan.

8.8 The regional transportation plan should include an analysis of the economic and environmental impacts of land use policies that encourage people to commute.

8.9 Local and regional transportation plans will consider maritime, aviation and rail transportation as an integral link to the area's regional transportation needs.

IX.
ENVIRONMENTAL QUALITY
August 19, 1992
Adopted September 8, 1992

In order to fulfill the responsibilities of each generation as a trustee of the environment for succeeding generations; and to assure a safe, healthful, and productive environment for local residents, the county, cities and towns will:

9.1 Recognize our interdependence on natural systems and maintain a balance between human uses and the natural environment by:

a. Establishing a pattern and intensity of land and resource use in concert with the ability of land and resources to sustain such use; and

b. Concentrating development in urban growth areas in order to conserve natural resources and enable continued resource use;

9.2 Protect ground and surface water and the water of the Puget Sound from further degradation by adopting and participating in comprehensive, multi-jurisdictional program to protect and monitor water resources for all uses;

9.3 Protect and enhance air quality;

9.4 Minimize high noise levels that would degrade the residents' quality of life;

9.5 Maintain significant wildlife habitat and corridors; and

9.6 Preserve and promote awareness of our historic, cultural, and natural heritage.

9.7 Encourage the reuse and recycling of materials and products, and reduction of waste to the maximum extent practicable.

9.8 Provide for parks and open space.

9.9 Plan for the amount of population that can be sustained by our air, land and water resources without degrading livability and environmental quality.

COUNTY-WIDE POLICIES WHICH ESTABLISH A PROCESS TO DEVELOP FUTURE POLICIES

August 10, 1992
Adopted September 8, 1992
Amended July 1, 2002

10.1. Process to determine and assure sufficiency of Urban Growth Areas to permit projected urban population:

a. The state Office of Financial Management growth management planning population projections for Thurston County will be used as the range of population to be accommodated for the coming 20 years.

b. Within the overall framework of the OFM population projections for the County Thurston Regional Planning Council will develop countywide and smaller area population projections, pursuant to RCW 36.70A.110 and based on current adopted plans, zoning and environmental regulations and buildout trends.

c. A review and evaluation program pursuant to RCW 36.70A.215 ("Buildable Lands Program") will be established. The evaluation required under the Buildable Lands Program will be completed no later than September 1, 2002, subject to availability of State funding. Subsequent evaluations shall occur at least once every five years. This evaluation may be combined with the review and evaluation of county and city comprehensive land use plans and development regulations required by RCW 36.70A.130 (1), and the review of urban growth areas required by RCW 36.70A.130(3).

i. In the event of a dispute among jurisdictions relating to inconsistencies in collection and analysis of data, the affected jurisdictions shall meet and discuss methods of resolving the dispute.
ii. Nothing in this policy shall be construed to alter the land use power of any Thurston County jurisdiction under established law.
iii. Because inclusion of this policy is as a result of state mandated legislation, implementation of this policy shall be commensurate with state funding.

d. The Thurston Regional Planning Council will review the smaller area population projections to assure that the 20-year population is accommodated county-wide, and that urban growth areas are of sufficient area and densities to permit the projected urban population.

Explanatory comment: If the smaller area projections under "b" above indicate, for example, that based on existing planning/zoning and buildout trends that one or all Urban Growth Areas would be full before 20 years, the county and cities will be in position through the review that would take place under provision "de" to identify needed actions, such as enlarging growth boundaries, encouraging more compact development inside growth areas, mechanisms to cut the amount of population coming to the county, etc.

10.2 These county-wide policies will be reviewed upon request of four jurisdictions.

After Recording Return to:

Barbara Sikorski, Asst. Clerk
Snohomish County Council
3000 Rockefeller, M/S 609
Everett, WA 98201

CONFORMED COPY
200310160273 23 PGS
10-16-2003 10:59am $0.00
SNOHOMISH COUNTY, WASHINGTON

Agencies: Snohomish County and City of Gold Bar
Tax Account No.: N/A
Legal Description: N/A
Reference No. of Documents Affected: Interlocal Recorded at AF#_____
Filed with the Auditor pursuant to RCW 39.34.040
Documents Title:

INTERLOCAL AGREEMENT BETWEEN THE CITY OF GOLD BAR AND SNOHOMISH COUNTY CONCERNING ANNEXATION AND URBAN DEVELOPMENT WITHIN THE GOLD BAR URBAN GROWTH AREA

GENERAL RECITALS

1. PARTIES

This Interlocal Agreement (hereinafter "AGREEMENT" or "ILA") is made by and between the City of Gold Bar (hereinafter referred to as the "CITY") and Snohomish County (hereinafter referred to as the "COUNTY"), political subdivisions of the State of Washington, pursuant to the Growth Management Act, codified at chapter 36.70A RCW, the Governmental Services Act, codified at chapter 36.115 RCW, and the Interlocal Cooperation Act, codified at chapter 39.34 RCW.

2. PURPOSE AND RECITALS

2.1 The purpose of this AGREEMENT is to facilitate an orderly transition of services and responsibility for capital projects from the COUNTY to the CITY at the time of annexation.

2.2 This AGREEMENT applies to all annexations that are approved after the effective date of this AGREEMENT.

2.3 The City of Gold Bar's Growth Management Act (GMA) Comprehensive Plan, as now existing or hereafter amended, identifies portions of the Gold Bar Urban Growth Area (UGA) identified for potential future annexation (Exhibit A).

2.4 The CITY and COUNTY recognize that this framework AGREEMENT includes general statements of principle and policy, and that addenda to existing interlocal agreements or government service agreements or additional agreements on specific topical subjects relating to annexation and service transition may be developed subsequently. Separate interlocal or government service agreements on specific annexation issues will supersede the specific language in this AGREEMENT only for that specific issue. Potential topics

for additional agreements include: roads and traffic impact mitigation; surface water management; parks, recreation and open space; police services; and fire marshal services.

2.5 If the COUNTY legislative authority finds that a proposed annexation within the uncontested portions of the Gold Bar UGA is consistent with this AGREEMENT and that an addendum pursuant to Section 13 of this Agreement is completed or not necessary, the COUNTY will not oppose the proposed annexation and will send a letter to the Boundary Review Board in support of the proposed annexation.

2.6 The CITY and COUNTY wish to establish a generalized, framework interlocal agreement to implement urban development standards within the uncontested portions of the Gold Bar UGA prior to annexation, for the planning and funding of capital facilities in the unincorporated portion of the uncontested UGA, and to enable consistent responses to future annexations.

2.7 The CITY and COUNTY share a commitment to ensure that infrastructure will be in place within the UGA to serve development as it is ready for occupancy and use without decreasing service levels below locally established minimum standards and which is within funding capacities of the CITY and COUNTY.

2.8 The CITY and COUNTY believe it is in the best interest of the citizens of both jurisdictions to enable reciprocal imposition of impact mitigation requirements and regulatory conditions that affect improvements in the respective jurisdictions. Separate interlocal agreements on traffic impact mitigation and reciprocal park mitigation may be negotiated after the effective date of this agreement.

2.9 The CITY and COUNTY recognize the need for joint planning to establish local and regional facilities the jurisdictions have planned or anticipate for the area, identify ways to jointly provide these services and identify transition of ownership and maintenance responsibilities as annexations occur. This may result in a mutual ongoing planning effort, joint capital improvement plans and reciprocal impact mitigation. Joint planning issues could include planning, design, funding ROW acquisition, construction, and engineering for road projects; regional transportation plans, and infrastructure coordination; watershed management planning, capital construction, and related services; parks, recreation, and open space.

2.10 The CITY agrees to adopt the COUNTY codes listed in Exhibit B by reference for the purpose of allowing the COUNTY to process and complete permits and fire inspections in annexed areas. Adoption of the COUNTY's codes in no way effects projects applied for under the CITY's jurisdiction. The COUNTY shall be responsible for providing copies of all the codes listed in Exhibit B in addition to all the updates thereto to the Gold Bar City Clerk, so that the City Clerk may maintain compliance with RCW 35A.12.140.

ANNEXATION RELATED ISSUES

3. GMA AND LAND USE

Purpose: To ensure land use requirements under GMA and the COUNTY's land use codes are met.

3.1 Urban density requirements. Except as may be otherwise allowed by law, the CITY agrees to adopt and maintain land use designations and zones for the annexation areas that will accommodate within its jurisdiction the population and employment allocation assigned by Snohomish County under GMA for the subject area.

3.2 Imposition of City Standards. The COUNTY agrees to encourage development applicants within the Gold Bar UGA to design projects consistent with the CITY's urban design and development standards. The CITY agrees to make written recommendations to the COUNTY on how proposed new land use permit applications could be changed to make them consistent with CITY standards. When approval of the development is contingent upon extension of water service provided by the CITY, the COUNTY agrees to impose conditions voluntarily negotiated between the developer and the CITY as a condition of a water contract between the property owner or developer and the CITY, provided that the conditions meet minimum COUNTY DEVELOPMENT standards and mitigation conditions. The CITY agrees that the COUNTY can only impose standards and conditions in addition to those that the COUNTY would impose under COUNTY codes, if the applicant agrees in writing.

4. TRANSFER OF PERMITS IN PROCESS BY THE COUNTY

Purpose: To guarantee continuity for permit applicants by the COUNTY and CITY working together to set a process for transfer of permits at an appropriate stage of a permit review process and/or when the CITY is able to handle the additional workload.

4.1 Land use permit application consultation. After the effective date of this AGREEMENT, the COUNTY agrees to give the CITY timely written notice and review opportunity related to all land use permit applications inside the Gold Bar UGA, as defined in Section 4.5.1 below, as soon as the COUNTY is aware of such applications. The COUNTY will invite the staff representatives from the CITY to attend staff meetings with the applicant relating to the permit, including pre-application meetings.

4.2 Review of county land use permit applications. All land use applications submitted to the COUNTY within the Gold Bar UGA that are subject to SEPA will be reviewed under the terms of Section 8 of this Interlocal Agreement, the provisions of SEPA, and any other interlocal agreements relating to interjurisdictional coordination. Any COUNTY DEVELOPMENT within the Gold Bar UGA may also be required to provide improvements, dedicate or deed rights-of-way and meet road standards consistent with

minimum unincorporated UGA infrastructure standards adopted by the COUNTY.

4.3 County will process permits. The COUNTY agrees to continue processing both building and land use permit applications in the annexed area for which complete applications were filed before the effective date of the annexation, as provided below.

4.4 Building permits.

4.4.1 Definition. For the purposes of this AGREEMENT, the following definitions apply: "building permits" are defined as printed permission issued by the authorizing jurisdiction that allows for the construction of a structure, and includes repair, alteration, or addition of or to a structure; "associated permits" means mechanical, electrical, plumbing and sign permits for the building being permitted; "completion" means final administrative or quasi-judicial approvals, including final inspection and issuance of an occupancy permit.

4.4.2 Completion of building permits. In areas that have been annexed, the COUNTY agrees to complete processing of building permit applications that were deemed complete prior to the effective date of the annexation subject to the limitations in Sections 4.4.4 and 4.4.5 of this AGREEMENT. In addition, the COUNTY agrees to accept, process, and conduct inspections through completion for any associated permits for which it receives an application and accompanying fees before the effective date of the annexation. Where legislative approval by the Gold Bar City Council is required, the COUNTY will provide appropriate staff for the City Council's meeting, if deemed necessary by the CITY. Permit renewals shall be governed by Section 4.6.

4.4.3 Appeals of building permits. The COUNTY agrees to be responsible for defending, at no cost to the CITY, any administrative, quasi-judicial or judicial appeals of building permits issued by the COUNTY in the annexed area.

4.4.4 Building permits may be issued up to four months following annexation in areas that have been annexed. The COUNTY agrees to continue processing building permit applications pursuant to Section 4.4.2 of this AGREEMENT for up to four months following the effective date of the annexation. On or about the effective date of the annexation, the COUNTY and CITY will determine, in consultation with the applicant(s), whether any pending building permit applications will be transferred to the CITY for completion.

4.4.5 Transfer by request of permit applicant. The CITY may at any time request the COUNTY to transfer pending building permit applications upon receipt of a written request by the permit applicant. The COUNTY will contact applicants for pending permit applications to provide advance notification of the transfer date. The CITY will honor any intermediate approvals (such as building plan check approval) that are effective prior to transfer of the permit application. Following consultation with the COUNTY, CITY staff must approve extension of intermediate approvals following the annexation.

4.5 Land use permits.

4.5.1 Definitions. For the purposes of this AGREEMENT, "land use permits" are defined as non-single family building permits for structures greater than 4,000 square feet in size, subdivisions, planned residential developments, short subdivisions, conditional uses, special uses, rezones, shoreline substantial development permits, and variances; "review stage" is defined for subdivisions and short subdivisions to include the following elements which will individually be regarded as a distinct "stage" - preliminary plat approval, plat construction plan approval, inspection or final plat processing; "review stage" for all other land use permits includes preliminary approval, construction plan approval, construction inspections, or final sign-off, but does not include related building permit applications unless applied for in the COUNTY prior to the effective date of the annexation.

4.5.2 Completion of land use permits. The CITY and COUNTY agree to review the pending land use permits within the annexation area and to execute a detailed agreement covering the transfer of the pending land use permits in the annexation area before the effective date of the annexation.

4.5.3 Land use dedications, deeds or conveyances. Final plats or other dedications of public property will be transmitted to the CITY for City Council acceptance of dedication of right-of-way or public easements, if dedication occurs after the effective date of annexation. Dedications, deeds or conveyances will be in the name of the CITY after the effective date of the annexation and will be forwarded to the City Council for acceptance by the CITY even if the COUNTY is continuing to process the permit.

4.5.4 Appeals of land use permits. The COUNTY agrees to be responsible for defending, at no cost to the CITY, any administrative, quasi-judicial or judicial appeals of land use permits issued by the COUNTY in the annexed area.

4.6 Permit renewal or extension. Any request to renew a building permit or to renew or extend a land use permit issued by the COUNTY in the annexation area is be made to and administered by the CITY.

4.7 Transfer of permit fees. The CITY and COUNTY agree to proportionately share the permit application fees for any transferred cases. The COUNTY agrees to transfer a proportionate share of the application fee collected to the CITY, commensurate with the amount of work left to be completed on the permit. The proportionate share will be based on the COUNTY's permitting fee schedule.

4.8 Land use code enforcement cases. Any land use code enforcement cases in the annexation area pending in the COUNTY will be transferred to the CITY on the effective date of the annexation. Any further action in those cases will be the responsibility of the CITY and at the CITY'S discretion. The COUNTY agrees to make its employees available as witnesses at no cost to the CITY if necessary to prosecute transferred cases.

4.9 Enforcement of County conditions. Following the effective date of the annexation, the CITY agrees to enforce any conditions imposed by the COUNTY relating to the issuance of a building or land use permit in an area which has been annexed, to the same extent it enforces its own conditions. The COUNTY agrees to make its employees available, at no cost to the CITY, to provide assistance in enforcement of conditions on permits originally processed by COUNTY personnel.

4.10 Transference of bonds. Any performance, maintenance or other bonds held by the COUNTY to guarantee performance, maintenance or completion of work associated with the issuance of a permit will be transferred to the CITY along with responsibility for enforcement of conditions tied to said bonds.

5. RECORDS TRANSFER

Purpose: For the CITY and COUNTY to mutually determine the appropriate timing for the transfer of permit records.

Transfer of COUNTY records will be subject to an interlocal agreement between the CITY and the COUNTY, entitled *"Interlocal Agreement Between the City of Gold Bar and Snohomish County Concerning Transfer, Custody, and Retention of and Access to Public Records Following Annexation."*

6. COUNTY CAPITAL FACILITIES REIMBURSEMENT

Purpose: To identify recent capital projects that have occurred within the CITY's UGA that the COUNTY and CITY need to discuss if reimbursement for a portion of the expenditures is necessary and the best course of action for reimbursement.

6.1 Reimbursement for capital facilities investment. The CITY recognizes that the COUNTY can request reimbursement for the depreciated value of certain capital facilities expenditures made in the five-year period preceding the effective date of an annexation based on a negotiated repayment schedule. However, the CITY and COUNTY agree to use their best efforts to pursue cost sharing where feasible, when planning for new local and regional capital construction projects. Nothing in this paragraph shall be construed as imposing a duty to share costs or reimburse capital expenditures.

6.2 Consultation on capital expenditures for active and future projects. The COUNTY will consult with the CITY in planning for new local and regional capital construction projects within the Gold Bar UGA, but the City has not determined at this time that the COUNTY is legally entitled to any such reimbursement. The COUNTY and CITY agree to begin consultation regarding existing active COUNTY projects within sixty (60) days of approval of this AGREEMENT. At the time of this consultation, or at the project planning stage, the parties will discuss the need for shared responsibilities in

implementing capital projects, including the potential for indebtedness by bonding or loans. The CITY and COUNTY will pursue cooperative financing for capital facilities where appropriate. Interlocal agreements addressing shared responsibilities for capital projects within the UGA will be negotiated, where appropriate.

6.3 Continued planning, design, funding, construction, and services for active and future capital projects. Shared responsibilities for local capital projects and local share of regional capital facilities within the Gold Bar UGA and continued COUNTY services relating to the planning, design, funding, property acquisition, construction, and engineering for local capital projects within an annexation area will be addressed by separate interlocal agreement(s) for specific projects. Appropriate interlocal agreements relating to planning, design, funding, property acquisition, construction, and other architectural or engineering services for active and future capital projects within an annexation area will be documented as part of an annexation addendum under Section 13 of this AGREEMENT.

6.4 Capital facilities finance agreements. At a minimum, project-specific interlocal agreements for major new local capital facility projects and local share of regional capital facilities within the Gold Bar UGA will be discussed. These agreements may include transfers of future revenues from the CITY to the COUNTY, proportionate share reimbursements from the CITY to the COUNTY and/or CITY assumption of COUNTY debt service responsibility for loans or other financing mechanisms for new local capital projects and local capital projects with outstanding public indebtedness within the annexation area at the time of annexation. Both parties agree in principle that there should not be any reimbursement for projects that have already been paid for by the citizens of the annexing area (e.g., through special taxes or assessments, traffic mitigation, or other attributable funding sources).

6.5 Continuation of latecomers cost recovery programs and other capital facility financing mechanisms. After annexation, the CITY agrees to continue administering any non-protest agreements, latecomers assessment reimbursement programs established pursuant to Chapter 35.72 RCW, or other types of agreements or programs relating to future participation or cost-share reimbursement in accordance with the terms of any agreement recorded with the Snohomish County Auditor relating to property within the Gold Bar UGA. In addition to the recorded documents, the COUNTY will provide available files, maps, and other relevant information necessary to effectively administer these agreements or programs. If a fee is collected for administration of any of the programs or agreements contained in this Section, the COUNTY agrees to transfer a proportionate share of the administration fee collected to the CITY, commensurate with the amount of work left to be completed on the agreement. The proportionate share will be based on the COUNTY's fee schedule.

7. ESSENTIAL PUBLIC FACILITIES

Purpose: To ensure adoption of a common siting process for essential public facilities.

Essential Public Facilities Siting Process. If the CITY has not already signed the *Interlocal Agreement to Implement Common Siting Process for Essential Public Facilities*, the COUNTY and CITY agree to review any proposed annexation and consider whether that interlocal should be adopted or some provisions for implementation of siting of essential public facilities included in an annexation addendum under Section 13 of this AGREEMENT.

8. ROADS AND TRANSPORTATION

Purpose: To ensure an orderly transfer of ownership and maintenance of existing road and transportation facilities and the future planning, construction and maintenance of transportation facilities including circulation plans, arterial network plans and transit-oriented development.

8.1 Annexation of road right-of-ways. The CITY agrees to assume full legal control and maintenance responsibility for road right-of-ways and associated drainage facilities within the annexed area upon the effective date of annexation, unless otherwise mutually agreed in writing.

8.2 Road maintenance responsibility. Where possible the CITY agrees to annex continuous segments of road to facilitate economical division of maintenance responsibility and avoid discontinuous patterns of alternating City and County road/street ownership. Where annexation of segments of road are unavoidable, the CITY and COUNTY agree to consider a governmental service agreement providing for maintenance of the entire road/street segment by the jurisdiction best able to provide maintenance services on an efficient and economical basis.

8.3 Taxes, fees, rates, charges and other monetary adjustments. In reviewing annexation proposals, the CITY and COUNTY must consider the effect on the finances, debt structure and contractual obligations and rights of all effected governmental units. Tax and revenue transfers are generally provided by state statute.

8.4 Reciprocal impact mitigation. The CITY and COUNTY agree to mutually enforce each other's traffic mitigation ordinances and policies to the extent permitted by law to address multi-jurisdictional impacts under the terms and conditions as provided for in Section 8.6, 8.7 and 8.8 of this AGREEMENT.

8.4.1 Transfer of uncommitted proportionate share mitigation payments. The COUNTY collects proportionate share mitigation payments (e.g., GMA impact fees and road-related capacity payments collected pursuant to the State Environmental Policy Act) as a condition to the issuance of land development permits pursuant to Chapter 30.66B SCC for roads in the impact fee cost basis. Where the annexation area includes system improvement(s) for which mitigation payments have been collected and which remain programmed for improvement(s), the COUNTY and CITY will negotiate a transfer of all or a portion of such payments based upon such factors as the legal requirements for expending the payments, the ability of the CITY to expend any transferred payments on

the annexed system improvements, and whether or not developments that made such payments are located in the annexed area. In any negotiation involving mitigation fees imposed by the COUNTY without input from the CITY pursuant to this agreement, the CITY shall always have the right to refuse to accept any mitigation fees offered by the COUNTY and the COUNTY shall assume full responsibility for the disbursal of such fees, provided that if the CITY refuses any mitigation fees, it shall authorize the COUNTY to complete the project funded by the mitigation fees within the CITY, to the extent permitted by applicable law.

8.5 Joint transportation planning.

8.5.1 Circulation planning and implementation. The Reciprocal traffic mitigation policies referenced in Section 8.6, 8.7 and 8.8 will address access and circulation provisions by new developments. Implementing the reciprocal traffic policies is necessary to provide safe and convenient access and circulation for the occupants and users of the new developments and to mitigate impacts of new developments on access and network circulation. Criteria related to access and circulation issues may be included in the set of common design and development standards to be developed under a multi-jurisdictional process. Where appropriate, circulation planning and implementation of development standards and policies will include pedestrian and other non-motorized transportation facilities.

8.5.2 Arterial network plan. The CITY and COUNTY agree to cooperate on the development and maintenance of a regional arterial network plan through the Snohomish County Arterial Network (SnoCAN) project or other efforts to coordinate regional arterial planning and transportation circulation.

8.5.3 Transit-oriented development implementation. The CITY and COUNTY agree to cooperate on the development of transit-oriented development (TOD) regulations and transit supportive policies to implement the COUNTY and CITY comprehensive planning policies.

8.5.4 Management services. The CITY and COUNTY agree to evaluate whether an interlocal agreement addressing maintenance of streets, traffic signals or other transportation facilities will be appropriate. Any COUNTY maintenance within an annexation area after the effective date of the annexation will be by separate service agreement negotiated between the CITY and COUNTY.

8.6 Interjurisdictional traffic impacts. Pursuant to Section 8.4, this Section addresses the procedures for identification, documentation and mitigation of interjurisdictional traffic impacts.

8.6.1 County review and mitigation authority. Pursuant to SCC 30.61.230(9) and Section 8.4 of this agreement, the COUNTY recognizes the following designated mitigation policies of the CITY as a basis for the COUNTY's exercise of interjurisdictional mitigation authority pursuant to state and local law:

A. Chapter 18.04 GBMC, as now existing or hereafter amended, and the Gold Bar GMA Comprehensive Plan, including but not limited to, the General Policy Plan, Land Use Element, Capital Facilities Element, and the Transportation Element, as now existing or hereafter amended.

B. CITY codes, chapters, resolutions, plans, and reports incorporated by reference in the titles, chapters, documents, and plans cited above.

C. CITY policies related to mitigation of traffic impacts, including but not limited to the "1997 Gold Bar Impact Fee Traffic Study," as modified by the November 9, 1999 staff report to the mayor and city council entitled "Recommendations for Government Rate Increases 1999," as now existing or hereafter amended.

8.6.2 City review and mitigation authority. Pursuant to Section 8.4 of this agreement, the CITY recognizes the following mitigation policies of the COUNTY as a basis for the CITY's exercise of interjurisdictional mitigation authority under state and local law:

A. Subtitle 30.60 SCC, including but not limited to Chapter 30.66B SCC and the adopted SEPA policies identified in SCC 30.61.230, as now existing or hereafter amended, and the Snohomish County GMA Comprehensive Plan adopted by Ordinance 94-125 on June 28, 1995, including but not limited to the General Policy Plan, Capital Facilities Element, and the Transportation Element, as now existing or hereafter amended.

B. COUNTY codes, chapters, resolutions, plans or reports related to mitigation of traffic impacts, including, but not limited to:

1. Snohomish County's Engineering Design and Development Standards (EDDS) adopted under SCC Chapter 13.05, as now existing or hereafter amended; and

2. The Snohomish County Transportation Needs Report, as now existing or hereafter modified.

8.7 Mitigation for Impacts of COUNTY DEVELOPMENT on the CITY.

8.7.1 Traffic study requirement for County development. Pursuant to SCC 30.66B.035(7), the COUNTY, through this AGREEMENT, shall require a traffic study for any COUNTY DEVELOPMENT that may have impacts on the CITY's transportation system requiring mitigation in accordance with this AGREEMENT. Any such COUNTY DEVELOPMENT shall submit the requested traffic study to the COUNTY as part of its initial development application in accordance with Chapter 30.66B SCC.

8.7.2 Criteria for preparation of the traffic study. The CITY shall provide the criteria for preparation of the traffic study. The criteria shall include, but not be limited to, the items listed in the Gold Bar GMA Comprehensive Plan. Mitigation shall be consistent with applicable provisions of CITY code.

8.7.3 Traffic study requirement may be waived. The COUNTY may waive the requirement for all or part of the traffic study if the CITY indicates that all information necessary to assess the impact of the development is available.

8.7.4 Requirement of County to inform applicants. The Snohomish County Department of Public Works shall inform applicants, at the time of the pre-submittal conference, of the CITY's requirement for traffic studies and mitigation.

8.7.5 Supplemental information. Following review of the traffic study, the CITY may request supplemental information and analysis as necessary to determine the impacts of the development in accordance with this AGREEMENT. The COUNTY shall require the proposed development to submit the supplemental information and analysis to the extent that the COUNTY determines that it is necessary to determine the impacts of the development in accordance with this AGREEMENT.

8.7.6 County to provide notice. The COUNTY shall give the CITY notice and afford the CITY a timely opportunity for review, comment, staff consultation as provided by the Snohomish County Code related to the impacts that COUNTY DEVELOPMENT may have on the CITY's transportation system under the CITY's designated mitigation policies.

8.7.7 County development impact on City. If it is determined by the CITY that a COUNTY DEVELOPMENT will impact the CITY's transportation system, the CITY shall notify the COUNTY of specific measures reasonably necessary to mitigate said impacts in accordance with the CITY's designated mitigation policies. For each mitigation measure requested the CITY shall identify the specific impacts and reference the relevant CITY mitigation policy. Notification of the specific mitigating measures shall be provided by the CITY within twenty-one (21) days of the date of notice of application, except where notice is for review of an environmental impact statement, in which case review period shall be as established in accordance with WAC 197-11-502 as now existing or hereafter amended.

8.7.8 Notification to County. If the COUNTY does not receive timely notification of the CITY's requested mitigating measures Snohomish County PDS may assume that the CITY has no comments or information relating to potential impacts of the development on CITY facilities and may not require any mitigation from the development for impacts on CITY facilities.

8.7.9 City recommendation on County development. The CITY shall make recommendations to the COUNTY regarding application of its designated mitigation policies to COUNTY DEVELOPMENT that impacts the CITY's transportation system in a manner consistent with the CITY's application of mitigation policies to CITY DEVELOPMENT that impacts CITY transportation systems.

8.7.10 County imposed mitigating measures. Consistent with Chapter 30.66B.720(3) SCC, COUNTY staff shall recommend imposing the mitigating measures requested by the CITY in accordance with this AGREEMENT as a condition of the COUNTY's development approval to the extent that such requirements are reasonably related to the impact of the development and consistent with the terms of this AGREEMENT and applicable law. The approving authority for the COUNTY will impose such mitigating measures as a condition of approval of the development in conformance with the terms of this AGREEMENT unless such action would not comply with existing laws or statutes. If Snohomish County Department of Public Works (SCDPW) determines that it may not recommend imposing the mitigating measures requested by the CITY, SCDPW will notify the CITY as soon as possible, and work with the CITY to mutually resolve any differences prior to development approval.

8.7.11 City responsibility. The CITY shall be responsible for individualized analysis, documentation, hearing testimony, and legal review, including the private property protection process of RCW 36.70A.370, of any recommendation made by the CITY for imposition of mitigation measures on COUNTY DEVELOPMENT. The CITY shall provide all supporting documentation to the COUNTY for inclusion in the record for the COUNTY DEVELOPMENT. The CITY shall be responsible for all accounting, administration, and other actions required for compliance with Chapter 82.02 RCW related to mitigation by COUNTY DEVELOPMENT for impacts in the CITY, provided that the COUNTY shall be responsible for failing to comply with the expenditure requirements of chapter 82.02 RCW if it fails to disburse any CITY fees subject to chapter 82.02 RCW to the CITY within a reasonable time from receipt of those fees.

8.8 Mitigation for Impacts of CITY DEVELOPMENT on the COUNTY.

8.8.1 Traffic study requirement for City development. The CITY, through this AGREEMENT, shall require a traffic study from any CITY DEVELOPMENT that may have impacts on the COUNTY's transportation system requiring mitigation in accordance with this AGREEMENT. Any such CITY DEVELOPMENT shall submit the requested traffic study to the CITY and the COUNTY as part of its initial development application.

8.8.2 Criteria for preparation of traffic study. The COUNTY shall provide the criteria for preparation of the traffic study.

8.8.3 Traffic study requirement may be waived. The CITY may waive the requirement for all or part of the traffic study if the COUNTY indicates that all information necessary to assess

the impact of the development is available.

8.8.4 Requirement of City to inform applicants. The CITY shall inform applicants, at the time of the pre-submittal conference, of the COUNTY's requirement for traffic studies and mitigation.

8.8.5 Supplemental information. Following review of the traffic study, the COUNTY may request supplemental information and analysis as necessary to determine the impacts of the development in accordance with this AGREEMENT. The CITY shall require the proposed development to submit the supplemental information and analysis to the extent that the CITY determines that it is necessary to determine the impacts of the development in accordance with this AGREEMENT.

8.8.6 City to provide notice. The CITY shall give the COUNTY notice and afford the COUNTY a timely opportunity for review, comment, staff consultation as provided by the CITY Code related to the impacts that CITY DEVELOPMENT may have on the COUNTY's transportation system under the COUNTY's designated mitigation policies.

8.8.7 City development impact on County. If it is determined by the COUNTY that a CITY DEVELOPMENT will impact the COUNTY's transportation system, the COUNTY shall notify the CITY of specific measures reasonably necessary to mitigate said impacts in accordance with the COUNTY's designated mitigation policies. For each mitigation measure requested the COUNTY shall identify the specific impacts and reference the relevant COUNTY mitigation policy. Notification of the specific mitigating measures shall be provided by the COUNTY within twenty-one (21) days of the date of notice of application, except where notice is for review of an environmental impact statement, in which the case review period shall be as established in accordance with WAC 197-11-502 as now existing or hereafter amended.

8.8.8 Notification to City. If the CITY does not receive timely notification of the COUNTY's requested mitigating measures the CITY may assume that the COUNTY has no comments or information relating to potential impacts of the development on COUNTY facilities and may not require any mitigation from the development for impacts on COUNTY facilities.

8.8.9 County recommendation on City development. The COUNTY shall make recommendations to the CITY regarding application of its designated mitigation policies to CITY DEVELOPMENT that impacts the COUNTY's transportation system in a manner consistent with the COUNTY's application of mitigation policies to COUNTY DEVELOPMENT that impacts the COUNTY's transportation system.

8.8.10 City imposed mitigating measures. Consistent with CITY code, CITY staff shall recommend imposing the mitigating measures requested by the COUNTY in accordance

with this AGREEMENT as a condition of the CITY's development approval to the extent that such requirements are reasonably related to the impact of the development and consistent with the terms of this AGREEMENT and applicable law. The approving authority for the CITY will impose such mitigating measures as a condition of approval of the development in conformance with the terms of this AGREEMENT unless such action would not comply with existing laws or statutes. If the CITY determines that it may not recommend imposing the mitigating measures requested by the COUNTY, the CITY will notify the COUNTY as soon as possible, and work with the COUNTY to mutually resolve any differences prior to development approval.

8.8.11 County responsibility. The COUNTY shall be responsible for individualized analysis, documentation, hearing testimony, and legal review, including the private property protection process of RCW 36.70A.370, of any recommendation made by the COUNTY for imposition of mitigation measures on CITY DEVELOPMENT. The COUNTY shall provide all supporting documentation to the CITY for inclusion in the record for the CITY DEVELOPMENT. The COUNTY shall be responsible for all accounting, administration, and other actions required for compliance with Chapter 82.02 RCW related to mitigation by CITY DEVELOPMENTS for impacts in the COUNTY, provided that the CITY shall be responsible for failing to comply with the expenditure requirements of chapter 82.02 RCW if it fails to disburse any COUNTY fees subject to chapter 82.02 RCW to the COUNTY within a reasonable time from receipt of those fees.

9. SURFACE WATER MANAGEMENT

Purpose: To ensure a smooth transfer of ownership and maintenance of existing surface water facilities and to cooperate on future planning, construction and maintenance of surface water facilities.

9.1 Legal control and maintenance responsibilities. If the annexed area includes surface water drainage improvements or facilities the COUNTY currently owns or maintains, the CITY and COUNTY agree to negotiate the disposition of legal control and maintenance responsibilities by the end of the year in which the annexation becomes effective. The COUNTY agrees to provide a list of regional facilities prior to the start of negotiations. Residential detention facilities over which the COUNTY holds maintenance easements will transfer to the CITY. If the COUNTY's current Annual Construction Program or Surface Water Management Division budget includes major surface water projects in the area to be annexed, the CITY and COUNTY will determine how funding, construction, programmatic and/or subsequent operational responsibilities will be assigned for these improvements.

9.2 Taxes, fees, rates, charges and other monetary adjustments. The CITY recognizes that fees are collected by the COUNTY for unincorporated areas within designated Watershed Management Areas (WMAs) and/or the Clean Water District (CWD). Watershed management fees are collected at the beginning of each year through real property tax statements. Upon the effective date of the annexation, the CITY hereby agrees that the

COUNTY will continue to collect and apply the fees, pursuant to Chapter 25.20 SCC and to the extent permitted by law, collected during the calendar year in which the annexation occurs to the provision of watershed management services designated in that year's budget. These services will be provided through the year in which the annexation becomes effective and will be of the same general level and quality as those provided to other fee payers in the COUNTY.

9.3 Government service agreements. The COUNTY and CITY intend to work toward one or more interlocal agreements for joint watershed management planning, capital construction, infrastructure management, habitat/river management, water quality management, outreach and volunteerism, and other related services.

10. PARK, OPEN SPACE AND RECREATIONAL FACILITIES

Purpose: To ensure an orderly transfer of ownership and maintenance of existing park, open space and recreational facilities in accordance with Park Department policies and future planning, construction and maintenance of park facilities.

10.1 Local or community parks. If an annexed area includes parks, open space or recreational facilities that are listed as a local or community park, the CITY agrees to assume maintenance, operation and ownership responsibilities for the facility upon the effective date of the annexation. The only exception is if prior to the annexation, the COUNTY declares its intention to retain ownership of the park.

10.2 Criteria for County to retain ownership. The COUNTY, in consultation with the CITY, will make the decision on whether to retain ownership based on the following criteria and consistent with the Snohomish County Comprehensive Parks and Recreation Plan:

- The park has a special historic, environmental or cultural value associated with the Snohomish County Department of Parks and Recreation and to the citizens of Snohomish County;
- There are efficiencies with the COUNTY's operation and/or maintenance of the park property;
- The COUNTY has made a substantial capital investment in the park property including the purchase of the property, the development of the park, and the construction of facilities;
- There are specialized stewardship or maintenance issues associated with the park that the COUNTY is best equipped to address;
- The property generates revenue that is part of the larger COUNTY park operation budget; and/or
- The facility serves as a regional park or is part of the COUNTY'S trail system and would be better included in the COUNTY's regional network.

10.3 Taxes, fees, rates, charges, and other monetary adjustments. Funds for park and recreation facility impact mitigation payments and park or open space related mitigation

payments are collected by the approving jurisdiction as a condition of land development permit approval pursuant to the relevant provisions of COUNTY or CITY code. The portion of the impact mitigation payments for regional parks and open space shall be disbursed to the COUNTY. The portion of the impact mitigation payments for local parks within the annexation area shall be disbursed to the CITY for park and recreation facility impact mitigation. The jurisdiction receiving impact mitigations funds shall, upon receipt, assume responsibility for administering and expending those funds in compliance with Chapter 82.02 RCW. The transfer of fees to the CITY shall be subject to the negotiation and right of refusal provisions of Paragraph 8.4.1 of this Agreement.

11. POLICE SERVICES

Purpose: To ensure a smooth transition of police services from the COUNTY to the CITY upon annexation.

As necessary, the CITY and COUNTY agree to discuss the needs for contracting or transfer of police services within an annexed area and the unincorporated UGA. Agreements between the CITY and COUNTY will be made consistent with RCW 41.14.250 through 41.14.280 and RCW 35.13.360 through 35.13.400. The County Sheriff's Department, upon request by the CITY, will provide detailed service and cost information for the area to be annexed.

12. FIRE MARSHAL SERVICES

Purpose: To ensure a smooth transition of fire marshal services from the COUNTY to the CITY upon annexation.

12.1 COUNTY to complete annual fire inspections. The COUNTY agrees to process and complete fire inspections in an annexed area that were scheduled before the effective date of annexation and occur within four months following the effective date of the annexation.

12.2 Fire code enforcement cases. The COUNTY will complete any pending fire code enforcement cases within the annexation area until final disposition of the case. Any further action in those cases will be at the discretion of the CITY.

LEGALLY REQUIRED LANGUAGE

13. ADDENDA AND AMENDMENTS

13.1 Addenda related to annexation. An addendum to this AGREEMENT may be prepared for each annexation, if necessary, to address parks, transportation, surface water management, capital facilities, or other issues specific to that annexation. The CITY and COUNTY will negotiate the addendum prior to or during the forty-five (45) day review period following the date the Boundary Review Board accepts the CITY's Notice Of Intention for the annexation.

13.1.2 Requirements for residential densities. Pursuant to the Snohomish County GMA Comprehensive Plan, the COUNTY will not support an annexation unless the CITY agrees, through an annexation specific addenda to this AGREEMENT, to implement the residential density requirements contained in GPP Policy LU 2.A.1 for the area to be annexed, to the extent that the densities are consistent with the densities required by the state and county for septic systems.

13.2 Amendments. The CITY and COUNTY recognize that amendments to this AGREEMENT may be necessary to clarify particular sections or to update and expand the AGREEMENT. Either party may pursue an amendment, as necessary.

13.3 Process for addending or amending this agreement. An addendum or amendment must be mutually agreed upon by the parties and executed in writing before becoming effective. Any addendum or amendment to the AGREEMENT will be executed in the same manner as provided by law for the execution of the AGREEMENT.

13.4 Additional agreements. Nothing in this agreement limits parties entering into interlocal agreements on additional issues not covered by, or in lieu of, the terms of this agreement.

14. THIRD PARTY BENEFICIARIES

There are no third party beneficiaries to this AGREEMENT, and this AGREEMENT shall not be interpreted to create such rights.

15. DISPUTE RESOLUTION

The CITY and COUNTY mutually agree to use a formal dispute resolution process such as mediation, through an agreed upon mediator and process, if agreement cannot be reached regarding interpretation or implementation of any provision of this AGREEMENT. All costs for mediation services would be divided equally between the CITY and COUNTY. Each jurisdiction would be responsible for the costs of their own legal representation. The CITY and COUNTY agree to mediate any disputes regarding the annexation process or responsibilities of the parties prior to any Boundary Review Board hearing on a proposed annexation, if possible. The parties shall use the mediation process in good faith to attempt to come to agreement early in the annexation process and prior to any hearings that may be required before the Boundary Review Board.

16. HONORING EXISTING AGREEMENTS, STANDARDS AND STUDIES

Unless otherwise specified in this AGREEMENT and attachments, the CITY and COUNTY mutually agree to honor all existing mitigation agreements, interlocal agreements, appropriate interjurisdictional studies and agreed upon standards affecting an annexation area to which the CITY or COUNTY is a party.

17. RELATIONSHIP TO EXISTING LAWS AND STATUTES

This AGREEMENT in no way modifies or supersedes existing state laws and statutes. In meeting the commitments encompassed in this AGREEMENT, all parties will comply with the requirements of the Open Meetings Act, Public Records Act, Growth Management Act, State Environmental Policy Act, Annexation Statutes, and other applicable state or local laws. The COUNTY and CITY retain the ultimate authority for land use and development decisions within their respective jurisdictions as provided herein. By executing this AGREEMENT, the COUNTY and CITY do not purport to abrogate the decisionmaking responsibility vested in them by law.

18. EFFECTIVE DATE, DURATION AND TERMINATION

18.1 This AGREEMENT shall become effective following the approval of the AGREEMENT by the official action of the governing bodies of each of the parties hereto and the signing of the AGREEMENT by the duly authorized representative of each of the parties hereto.

18.2 Termination. Either party may terminate its obligations under this AGREEMENT upon 90 days advance written notice to the other party and subject to the following condition. Following a termination, the COUNTY and CITY are mutually responsible for fulfilling any outstanding obligations under this AGREEMENT incurred prior to the effective date of the amendment or termination.

19. INDEMNIFICATION AND LIABILITY

19.1 The CITY shall protect, save harmless, indemnify and defend, at its own expense, the COUNTY, its elected and appointed officials, officers, employees and agents, from any loss or claim for damages of any nature whatsoever arising out of the CITY's performance of this AGREEMENT, including claims by the CITY's employees or third parties, except for those damages caused solely by the negligence or willful misconduct of the COUNTY, its elected and appointed officials, officers, employees, or agents.

19.2 The COUNTY shall protect, save harmless, indemnify, and defend at its own expense, the CITY, its elected and appointed officials, officers, employees and agents from any loss or claim for damages of any nature whatsoever arising out of the COUNTY's performance of this AGREEMENT, including claims by the COUNTY's employees or third parties, except for those damages caused solely by the negligence or willful misconduct of the COUNTY, its elected and appointed officials, officers, employees, or agents.

19.3 In the event of liability for damages of any nature whatsoever arising out of the performance of this AGREEMENT by the CITY and the COUNTY, including claims by the CITY's or the COUNTY's own officers, officials, employees, agents, volunteers, or third parties, caused by or resulting from the concurrent negligence of the COUNTY and the CITY, their officers, officials, employees and volunteers, each party's liability

hereunder shall only be to the extent of that party's negligence.

19.4 No liability shall be attached to the CITY or the COUNTY by reason of entering into this AGREEMENT except as expressly provided herein. The CITY shall hold the COUNTY harmless and defend at its expense any legal challenges to the CITY's requested mitigation and/or failure by the CITY to comply with chapter 82.02 RCW. The COUNTY shall hold the CITY harmless and defend at its expense any legal challenges to the COUNTY's requested mitigation and/or failure by the COUNTY to comply with chapter 82.02 RCW. Museums

20. SEVERABILITY

If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the provisions and/or the application of the provisions to other persons or circumstances shall not be affected.

21. EXERCISE OF RIGHTS OR REMEDIES

Failure of either party to exercise any rights or remedies under this AGREEMENT shall not be a waiver of any obligation by either party and shall not prevent either party from pursuing that right at any future time.

22. RECORDS

Both parties shall maintain adequate records to document obligations performed under this AGREEMENT. Both parties shall have the right to review the other party's records with regard to the subject matter of this AGREEMENT, upon reasonable notice. Such rights last for six (6) years from the date of permit issuance for each specific development subject to this AGREEMENT.

23. ENTIRE AGREEMENT

This AGREEMENT constitutes the entire AGREEMENT between the parties with respect to the framework issues for annexations. It is anticipated that the parties will enter into further interlocal agreements on specific subject areas, as indicated in the text of the AGREEMENT.

24. GOVERNING LAW AND STIPULATION OF VENUE

This AGREEMENT shall be governed by the laws of the State of Washington. Any action hereunder must be brought in the Superior Court of Washington for Snohomish County.

25. CONTINGENCY

The obligations of the CITY and COUNTY in this AGREEMENT are contingent on the availability of funds through legislative appropriation and allocation in accordance with

law. In the event funding is withdrawn, reduced or limited in any way after the effective date of this contract, the CITY or COUNTY may terminate the contract under Part 18 of this AGREEMENT, subject to renegotiation under those new funding limitations and conditions.

26. CONTACTS FOR AGREEMENT

The contact persons for this AGREEMENT are:

Steven C. Fuller, Mayor
City of Gold Bar
City Hall
107 5th Street
Gold Bar, WA 98251
(360) 793-1101

Richard Craig, Senior Planner
Snohomish County
Department of Planning and Development Services
3000 Rockefeller Avenue
Everett, WA 98201
(425) 388-3311

IN WITNESS WHEREOF, the parties have signed this AGREEMENT, effective on the date indicated below.

CITY OF GOLD BAR

By _____
Steven C. Fuller, Mayor

Date 9-19-03

ATTEST:
_____
January M. Sadler
Deputy City Clerk

SNOHOMISH COUNTY

By _____
Robert J. Drewel, County Executive

Date 8/6/03

ATTEST:
_____

Approved as to form:

Office of the City Attorney

_____
Phil A. Olbrechts
Attorney for the City of Gold Bar

Approved as to form:

Snohomish County Prosecuting Attorney

_____
Brent D. Lloyd
Deputy Prosecuting Attorney for
Snohomish County

D-8

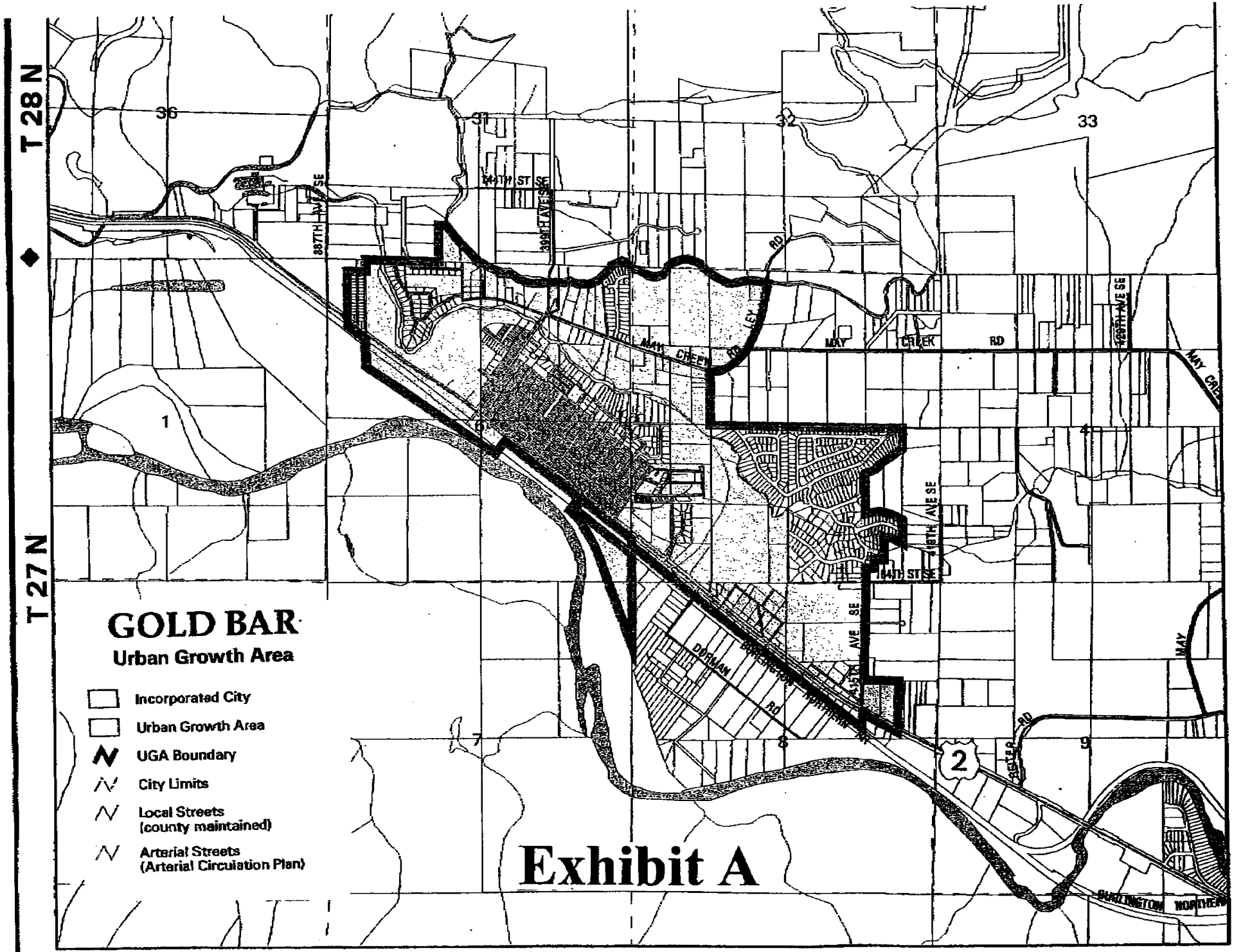


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EXHIBIT B –COUNTY LEGISLATIVE MEASURES AND CONTRACTUAL AGREEMENTS

Snohomish County Land Use and Development Codes that need to be adopted by the City. All codes are "as amended."

A. SCC Title 13, entitled ROADS AND BRIDGES, Chapters 13.01, 13.02, 13.05, and 13.10 through 13.70, 13.95, 13.110 and 13.130

B. SCC Chapter 30.53A, entitled UNIFORM FIRE CODE,

C. SCC Chapter 30.52A, entitled UNIFORM BUILDING CODE,

D. SCC SUBTITLE 30.2, entitled ZONING AND DEVELOPMENT STANDARDS

E. SCC Chapter 30.41A, entitled SUBDIVISIONS

F. SCC Chapter 30.41D, entitled BINDING SITE PLANS

G. SCC Chapter 30.41B, entitled SHORT SUBDIVISIONS

H. SCC Chapter 30.44, entitled SHORELINE MANAGEMENT

I. SCC SUBTITLE 30.6, entitled ENVIRONMENTAL STANDARDS AND MITIGATION

J. SCC Title 25, entitled STORM AND SURFACE WATER MANAGEMENT

K. SCC Chapter 30.66A, entitled PARK AND RECREATION FACILITY IMPACT MITIGATION

L. SCC Chapter 30.66B, entitled CONCURRENCY AND ROAD IMPACTMITIGATION

M. SCC Chapter 30.66C, entitled SCHOOL IMPACT MITIGATION

N. Ordinance 93-036, entitled SHORELINE MASTER PROGRAM

O. SCC Chapter 30.42B, entitled PLANNED RESIDENTIAL DEVELOPMENTS

All applicable state building and construction codes as adopted and amended by Snohomish County, including, but not limited to:

a) 1997 Uniform Building Code
b) 1997 Uniform Plumbing Code
c) 1997 Uniform Mechanical Code
d) Washington State Energy Code adopted April 1, 1990

Other Contractual Agreements

Interlocal Agreement Between Snohomish County and the Washington State Department of Transportation Relating to Policies and Procedures for Interjurisdictional Review of Land Development Impacts Related to Transportation, and for Reciprocal Impact Mitigation for Interjurisdictional Transportation System Impacts," July, 1997, as amended.